

WSR 17-08-023
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed March 28, 2017, 10:59 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-24-101.

Title of Rule and Other Identifying Information: eRules Phase 7 - chapter 296-52 WAC, Safety standards for possession, handling and use of explosives; chapter 296-59 WAC, Safety standards for ski area facilities and operations; chapter 296-78 WAC, Safety standards for sawmills and woodworking operations; chapter 296-79 WAC, Safety standards for pulp, paper and paperboard mills and converters; chapter 296-99 WAC, Grain handling facilities; and chapter 296-115 WAC, Safety requirements for charter boats.

Hearing Location(s): Department of Labor and Industries, Room S119, 7273 Linderson Way S.W., Tumwater, WA 98501, on May 19, 2017, at 10:00 a.m.

Date of Intended Adoption: August 1, 2017.

Submit Written Comments to: Tari Enos, P.O. Box 44620, Olympia, WA 98504-4620, email tari.enos@lni.wa.gov, fax (360) 902-5619, by 5:00 p.m. on May 26, 2017.

Assistance for Persons with Disabilities: Contact Tari Enos by May 5, 2017, at (360) 902-5541.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: No changes in requirements as a result of this rule making.

- Consistent format for all DOSH safety and health rules.
- Easy to access rules for smart phone and tablet users.
- Easy navigation in PDF files provided through bookmarks in the rules.
- Easier referencing by replacing bullets and dashes with numbers and letters.
- Enhanced rule update efficiency for customers through electronic postings.

Chapters 296-32, 296-36, 296-37, 296-63, and 296-67 WAC were all removed from this rule making. After the CR-101 was filed December 1, 2015, it was determined that these chapters are all being either rewritten and/or reviewed in separate rule-making projects, which will fulfill the requirements of SSB 5679, requiring all of our rules to be reviewed.

Amended Sections

WAC 296-52-60010 through WAC 296-52-809

- Change bullets, dashes and diamonds to letters or numbers where applicable and renumber/reletter the rest of the section or subsection.
- Change uppercase "and" and "or" to lowercase where applicable.
- Change "shall" to "must" where applicable.

Part A - Purpose, Scope and Application

- Add "definitions" to the title of Part A.

WAC 296-52-61010 License applicants must provide this information

- Add "Individual" to beginning of subsection (1).

- Remove bulleted item below subsection (1) that said "An individual must provide:"
- Add (b) and (c) to subsection (1).

WAC 296-52-61015 License applicants must complete department forms

- Add (1) to first sentence in this section.

WAC 296-52-64005 Responsibility to obtain a blaster's license

- Add a (1) to the opening paragraph.
- Add a (2) to the second paragraph.

WAC 296-52-65015 Manufacturing site inspections

- Add a (1) to the beginning of the section and renumber the rest.
- Add "The department will..." to new subsection (2).

WAC 296-52-66015 Storage site inspections

- Add a (1) to the beginning of the section and renumber the rest.
- Add "The department will..." to new subsection (2).

WAC 296-52-67170 Bulk delivery/mixing vehicles

- Add (iii) to last paragraph in subsection (2)(e).

WAC 296-52-70010 Building construction for Type 1 magazines

- Add a (1) to the opening paragraph of the beginning of the section and then renumber the rest of the section.

WAC 296-59-001 through 296-59-130

- Change "the employer" to "you must" where applicable.
- Change bullets and dashes to letters or numbers where applicable and renumber/reletter the rest of the section or subsection.
- Change "shall" to "must" where applicable.

WAC 296-59-007 Definitions

- Remove quotation marks from every definition.
- Remove the word "means" from every definition and add a period after the word being defined, making each definition a complete sentence.
- Add definitions for "hazardous material system" and "piping system" that were moved from WAC 296-59-080.
- Remove definition of "shall" and add definition of "must."

WAC 296-59-055 Lockout requirements

- Add letters (i)-(v) to unbulleted list in subsection (10)(a).

WAC 296-59-080 Installation, inspection and maintenance of pipes, piping systems and hoses

- Remove definitions of "hazardous material system" and "piping system" from subsection (1) and add them to WAC 296-59-007.

WAC 296-78-500 through 296-78-84011

- Change "the employer" to "you must" where applicable.
- Change bullets and dashes to letters or numbers where applicable and renumber/reletter the rest of the section or subsection.
- Change "shall" to "must" or "will" where applicable.

- Remove repetitive "titles" from the beginning of numbered subsections where applicable.

WAC 296-78-505 Definitions

- Remove quotation marks and numbers from all definitions.
- Remove the word "means" from applicable definitions, and add a period after the word being defined, making each definition a complete sentence.

WAC 296-78-56505 Boats and mechanical devices on waters

- Remove the reference to (19) from WAC 296-24-58501 in subsection (8)(h) due to definitions no longer being numbered.

WAC 296-78-70501 Definitions—Terms, general

- Remove numbers and quotation marks from definitions and add a period after every word being defined.

WAC 296-79-010 through 296-79-320

- Change "the employer" to "you must" where applicable.
- Change bullets and dashes to letters or numbers where applicable and renumber/reletter the rest of the section or subsection.
- Change "shall" to "must" where applicable.
- Remove repetitive "titles" from the beginning of numbered subsections where applicable.

WAC 296-79-011 Definitions

- Remove quotation marks from all definitions.
- Remove the word "means" from applicable definitions, and add a period after the word being defined, making each definition a complete sentence.
- Add definitions of "hazardous material system" and "piping system" that were removed from WAC 296-79-140.

WAC 296-79-140 Installation, inspection, and maintenance of pipes, piping systems and hoses

- Remove definitions of "hazardous material system" and "piping system" from subsection (1) and move them to WAC 296-79-011 and renumber the rest of the section.

WAC 296-79-150 Powered industrial trucks and other equipment

- Update reference in opening sentence of section from "chapter 296-24 WAC, Part D" to "chapter 296-863 WAC."
- Update reference in subsection (14) from "WAC 296-24-230" to "WAC 296-863-40060."

WAC 296-79-170 Requirements for crawler and truck cranes

- Add word "below" to subsection (19) to make a complete sentence: "When using visual signals, standard hand signals as illustrated below, must be used for directing crane operators."

WAC 296-79-210 For conveyors, maintenance and inspection

- Update reference from "chapter 296-24 WAC, Part D" to "WAC 296-806-420 Conveyors."

WAC 296-79-230 Confined spaces

- Update reference in subsection (1) from "chapter 296-62 WAC, Part M" to "chapter 296-809 WAC."

WAC 296-099-010 through 296-99-085

- Change "the employer" to "you must" where applicable.
- Change bullets/dashes to letters or numbers where applicable.

WAC 296-99-085 What special requirements apply to inside bucket elevators?

- Remove definition of "jogging" from subsection (1) and move it to WAC 296-99-005.

WAC 296-115-025 through 296-115-060

- Change "The employer" to "You must" where applicable.
- Change bullets and dashes to letters or numbers where applicable and renumber/reletter the rest of the section or subsection.

WAC 296-115-015 Definitions

- Remove numbers from all definitions.
- Remove the word "means" from applicable definitions, and add a period after the word being defined, making each definition a complete sentence.

New Sections

WAC 296-52-099 Definitions and 296-99-005 What definitions apply to this chapter?

Repealed Sections

WAC 296-52-60130 Definitions and 296-99-020 What definitions apply to this chapter?

Reasons Supporting Proposal: When the agency updated its web site, template DOSH rules in HTML were broken and DOSH began forwarding rule users to the office of the code reviser web site, causing more confusion among customers. This rule package will resolve stakeholder issues that have caused confusion for rule users by bringing one clear and consistent format to all of our rules.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 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: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, (360) 902-5516; Implementation and Enforcement: Anne Soiza, Tumwater, (360) 902-5090.

No small business economic impact statement has been prepared under chapter 19.85 RCW. According to RCW 19.85.025(3) which references RCW 34.05.310 (4)(d), no small business economic impact statement is required for this rule making.

A cost-benefit analysis is not required under RCW 34.05.328. According to RCW 34.05.328 (5)(iv), no cost-benefit analysis is required for this rule making.

March 28, 2017

Joel Sacks
Director

PART A

DEFINITIONS, PURPOSE, SCOPE, AND APPLICATION**NEW SECTION**

WAC 296-52-099 Definitions. Aerial blaster in charge. A person who:

- (a) Is fully qualified, by means of training and experience in explosives use;
- (b) Is adequately trained, experienced, and capable of recognizing hazardous conditions throughout the blast area;
- (c) Is in charge of:
 - (i) The blast process; and
 - (ii) All aspects of explosives and blasting agent storage, handling, and use as recommended by the manufacturer and as required by this chapter.
- (d) Is in a position of authority:
 - (i) To take prompt corrective action in all areas of the blast operation; and
 - (ii) Over all other blasters at the blast sight.
- (e) Has a minimum of five missions under the supervision of a licensed aerial blaster in charge; and
- (f) Successfully completes a written exam for aerial blaster in charge.

Alien. Any person who is not a citizen or national of the United States.

American table of distances. The *American Table of Distances for Storage of Explosives* as revised and approved by Institute of the Makers of Explosives (IME).

Approved storage facility. A facility for the storage of explosive materials which is in compliance with the following sections:

- (a) Storage license (WAC 296-52-660);
- (b) Storage of explosive materials, Part E of this chapter; and
- (c) Magazine construction (WAC 296-52-700).

ATF. The Bureau of Alcohol, Tobacco, Firearms and Explosives.

Attended, as attending explosives. The physical presence of an authorized person within the field of vision of explosives. The said attendant shall be awake, alert, and not engage in activities which may divert their attention so that in case of an emergency the attendant can get to the explosives quickly and without interference, except for brief periods of necessary absence, during which absence simple theft of explosives is not ordinarily possible.

Authorized agent. A person delegated by a licensed purchaser, who possesses a basic knowledge of explosives handling safety, to order and receive explosives on the purchaser's behalf.

Authorized agent list. A current list of agents the purchaser has authorized to order or receive explosives on their behalf.

Authorized, approved, or approval. Authorized, approved, or approval by:

- (a) The department;
- (b) Any other approving agency; and
- (c) An individual as specified in this chapter.

Authorized person. A person approved or assigned by an employer, owner, or licensee to perform a specific type of duty or be at a specific location at the job site.

Avalanche. The sliding or falling of a large amount of snow down a steep slope which has a destructive force due to its mass.

Avalanche control pack. A specially designed and constructed pack for carrying explosives.

Avalanche control route. A route or specific path which is used by an authorized person in order to control the occurrence of avalanches.

Avalauncher. A device like a cannon which is used for avalanche control blasting. It has a rotating base calibrated for pointing and the barrel is mounted on an elevating mechanism. It uses a compressed gas to propel a projectile containing an explosive charge and detonating means. The gas source is connected to the gun by high pressure hose with in-line control valves and pressure gauges ahead of the trigger mechanism.

Barricades.

(a) **Barricade.** Effectively screening a building containing explosives by means of a natural or artificial barrier from a magazine, another building, a railway, or highway;

(b) **Artificial barricade.** A barricade of such height that a straight line from the top of any sidewall of the building containing explosives to the eave line of any magazine or other building or to a point twelve feet above the center of a railway or highway shall pass through such barrier, an artificial mound or properly revetted wall of earth with a minimum thickness of three feet;

(c) **Natural barricade.** Any natural hill, mound, wall, or barrier composed of earth, rock, or other solid material at least three feet thick.

Blast area. The area of a blast that is effected by:

- (a) Flying rock missiles;
- (b) Gases; and
- (c) Concussion.

Blast pattern. The plan of the drill holes laid out and a display of the burden distance, spacing distance, and their relationship to each other.

Blast site. The area where explosive material is handled during loading and fifty feet in all directions from loaded blast holes or holes to be loaded.

Blaster. A person trained and experienced in the use of explosives and licensed by the department.

Blaster in charge. A licensed blaster who is:

- (a) Fully qualified, by means of training and experience in explosives use;
- (b) Adequately trained, experienced, and capable of recognizing hazardous conditions throughout the blast area;
- (c) In charge of:
 - (i) The blast process;
 - (ii) All aspects of explosives and blasting agent storage, handling, and use as recommended by the manufacturer and as required by this chapter.
- (d) In a position of authority:
 - (i) To take prompt corrective action in all areas of the blast operation;
 - (ii) Over all other blasters at the blast area.

Blaster's license. An individual license issued by the department under the provisions of chapter 296-52 WAC.

Blasting agent. Any material or mixture consisting of a fuel and oxidizer:

- (a) That is intended for blasting;
- (b) Not otherwise defined as an explosive;
- (c) If the finished product, as mixed for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined;

(d) A number 8 test blasting cap is one containing two grams of a mixture of eighty percent mercury fulminate and twenty percent potassium chlorate, or a blasting cap of equivalent strength. An equivalent strength cap comprises 0.40-0.45 grams of PETN base charge pressed in an aluminum shell with bottom thickness not to exceed 0.03 of an inch, to a specific gravity of not less than 1.4 g/cc., and primed with standard weights of primer depending on the manufacturer.

Blasting cap or cap. When used in connection with the subject of explosives shall mean detonator.

Blockholing. The breaking of boulders by firing a charge of explosives that has been loaded in a drill hole.

Buildings that are not inhabited. A building(s) which has no one in it while explosives are being made up in an adjacent explosives makeup room or while explosives are being held in an adjacent day box or hand charge storage facility.

Competent person. A person who:

- (a) Is capable of identifying existing hazardous and the forecasting of hazards of working conditions which might be unsanitary or dangerous to personnel or property; and
- (b) Has authorization to take prompt corrective action to eliminate such hazards.

Consumer fireworks.

- (a) Any small firework device:
 - (i) Designed to produce visible effects by combustion;
 - (ii) That must comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission (Title 16 C.F.R., Parts 1500 and 1507).
- (b) A small device designed to produce audible effects which include, but are not limited to:
 - (i) Whistling devices;
 - (ii) Ground devices containing 50 mg or less of explosive materials;
 - (iii) Aerial devices containing 130 mg or less of explosive materials.

Note: Fused set pieces containing components, which, together, exceed 50 mg of salute powder are not included.

Conveyance. Any unit used for transporting explosives or blasting agents including, but not limited to:

- (a) Trucks;
- (b) Trailers;
- (c) Rail cars;
- (d) Barges;
- (e) Vessels.

Day box. A box which:

- (a) Is a temporary storage facility for storage of explosive materials;
- (b) Is not approved for unattended storage of explosives;

(c) May be used at the worksite during working hours to store explosive materials, provided the day box is:

- (i) Constructed as required (WAC 296-52-70065 Explosives day box);
- (ii) Marked with the word "explosives";
- (iii) Used in a manner that safely separates detonators from other explosives; and
- (iv) Guarded at all times against theft.

Dealer. Any person who purchases explosives or blasting agents for the sole purpose of resale and not for use or consumption.

Detonating cord. A round flexible cord containing a center core of high explosive and used to initiate other explosives.

Detonator. Any device containing any initiating or primary explosive that is used for initiating detonation and includes, but is not limited to:

- (a) Electric and electronic detonators of instantaneous and delay types;
- (b) Detonators for use with safety fuses, detonating cord delay connectors, and nonelectric instantaneous delay detonators which use detonating cord, shock tube, or any other replacement for electric leg wires.

Discharge hose. A hose with an electrical resistance high enough to limit the flow of stray electric currents to safe levels, but not high enough to prevent drainage of static electric charges to the ground. Hose not more than 2 megohms resistance over its entire length and of not less than 5,000 ohms per foot meets the requirement.

Display fireworks. Large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, and include, but are not limited to:

- (a) Salutes containing more than 2 grains (130 mg) of explosive materials;
- (b) Aerial shells containing more than 40 grams of pyrotechnic compositions;
- (c) Other display pieces, which exceed the limits of explosive materials for classification as "consumer fireworks";
- (d) Fused set pieces containing components, which together exceed 50 mg of salute powder.

Dud. An unexploded deployed charge which still has its initiation system in place.

Electric blasting circuitry. Consists of these items:

- (a) **Bus wire.** An expendable wire used in parallel or series, or in parallel circuits, which are connected to the leg wires of electric detonators;
- (b) **Connecting wire.** An insulated expendable wire used between electric detonators and the leading wires or between the bus wire and the leading wires;
- (c) **Leading wire.** An insulated wire used between the electric power source and the electric detonator circuit;
- (d) **Permanent blasting wire.** A permanently mounted insulated wire used between the electric power source and the electric detonator circuit.

Electric delay detonators. Detonators designed to detonate at a predetermined time after energy is applied to the ignition system.

Electric detonator. A blasting detonator designed for and capable of detonation by means of electric current.

Electronic detonator. A detonator that utilizes stored electrical energy as a means of powering an electronic timing delay element/module that provides initiation energy for firing the base charge.

Emulsion. An explosive material containing:

(a) Substantial amounts of oxidizer dissolved in water droplets, surrounded by an immiscible fuel;

(b) Droplets of an immiscible fuel surrounded by water containing substantial amounts of oxidizer.

Explosive actuated power devices. Any tool or special mechanized device, which is activated by explosives and does not include propellant actuated power devices.

Explosives.

(a) Any chemical compound or mechanical mixture:

(i) Commonly intended or used for the purpose of producing an explosion;

(ii) That contains any oxidizing and combustible units or other ingredients in proportions, quantities or packing that an ignition by fire, friction, concussion, percussion, or detonation of any part of the compound or mixture may cause sudden generation of highly heated gases resulting in gaseous pressures capable of producing destructive effects on contiguous objects or of destroying life or limb.

(b) All material classified as Division 1.1, 1.2, 1.3, 1.4, 1.5, or 1.6 explosives by U.S. DOT;

(c) For the purposes of public consumer use, the following are not considered explosives unless they are possessed or used for a purpose inconsistent with small arms use or other legal purposes:

(i) Small arms ammunition;

(ii) Small arms ammunition primers;

(iii) Smokeless powder, not exceeding fifty pounds;

(iv) Black powder, not exceeding five pounds.

Explosives classifications. Explosives classifications include, but are not limited to:

(a) Division 1.1 and Division 1.2 explosives (possess mass explosion or detonating hazard):

(i) Dynamite;

(ii) Nitroglycerin;

(iii) Picric acid;

(iv) Lead azide;

(v) Fulminate of mercury;

(vi) Black powder (exceeding 5 pounds);

(vii) Detonators (in quantities of 1,001 or more);

(viii) Detonating primers.

(b) Division 1.3 explosives (possess a minor blast hazard, a minor projection hazard, or a flammable hazard):

(i) Propellant explosives;

(ii) Smokeless powder (exceeding fifty pounds).

(c) Division 1.4 explosives:

(i) Explosives that present a minor explosion hazard;

(ii) Includes detonators that will not mass detonate in quantities of 1,000 or less.

(d) Division 1.5 explosives:

(i) Explosives with a mass explosion hazard but are so insensitive that there is little probability of initiation;

(ii) ANFO and most other blasting agents are in this division.

(e) Division 1.6 explosives, which are explosives that are extremely insensitive and do not have a mass explosion hazard.

Explosives exemption. The exemption for small arms ammunition, small arms ammunition primers, smokeless powder, not exceeding fifty pounds, and black powder, not exceeding five pounds:

(a) Applies to public consumer use only;

(b) Does not apply to the employer employee relationship covered under the Washington Industrial Safety and Health Act.

Explosives international markings.

(a) The department will accept U.S. DOT and/or ATF international identification markings on explosives and/or explosives containers or packaging;

(b) This exception is under the authority of RCW 70.74.020(3) and in lieu of Washington state designated markings (as defined by RCW 70.74.010(4) (Division 1.1, 1.2, and 1.3) and required by RCW 70.74.300).

Explosives manufacturing building. Any building or structure, except magazines:

(a) Containing explosives where the manufacture of explosives, or any processing involving explosives, is conducted;

(b) Where explosives are used as a component part or ingredient in the manufacture of any article or device.

Explosives manufacturing plant. All lands with buildings used:

(a) In connection with the manufacturing or processing of explosives;

(b) For any process involving explosives;

(c) For the storage of explosives;

(d) To manufacture any article or device where explosives are used as a component part or ingredient in the article or device.

Fireworks. Any composition or device:

(a) Designed to produce a visible or an audible effect by combustion, deflagration, or detonation;

(b) Which meets the definition of "consumer fireworks" or "display fireworks."

Forbidden or not acceptable explosives. Explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the Federal Department of Transportation (DOT).

Fuel. A substance, which may react with oxygen to produce combustion.

Fuse (safety). See "safety fuse."

Fuse igniter. A special pyrotechnic device intended to be used to ignite safety fuses.

Hand charge. An explosive charge with a cap and fuse assembly inserted in place.

Handler. Any individual who handles explosives or blasting agents for the purpose of transporting, moving, or assisting a licensed blaster in loading, firing, blasting, or disposal.

Note: This does not include employees of a licensed manufacturer engaged in manufacturing process, drivers of common carriers, or contract haulers.

Hand loader. Any person who engages in the noncommercial assembly of small arms ammunition for personal use; specifically, any person who installs new primers, powder, and projectiles into cartridge cases.

Highway. Roads, which are regularly and openly traveled by the general public and includes public streets, alleys, roads, or privately financed, constructed, or maintained roads.

Improvised device. A device, which is:

- (a) Fabricated with explosives;
- (b) Fabricated with destructive, lethal, noxious, pyrotechnic, or incendiary chemicals, and designed, or has the capacity to disfigure, destroy, distract, and harass.

Inhabited building.

- (a) A building which is regularly occupied, in whole or in part, as a habitat for human beings;
- (b) Any church, schoolhouse, railroad station, store, or other building where people assemble.

Note: This does not mean any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

Low explosives. Explosive materials, which can be caused to deflagrate when, confined. This includes black powder, safety fuses, igniters, igniter cords, fuse lighters, and display fireworks defined as Division 1.2 or Division 1.3 explosives by U.S. DOT (49 C.F.R. Part 173).

Note: This does not apply to bulk salutes.

Magazine. Any building, structure, or container approved for storage of explosive materials.

Note: This does not apply to an explosive manufacturing building.

Manufacturer. Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his or her own use.

EXCEPTIONS: The following exemptions are restricted to materials and components, which are not classified (by U.S. DOT) as explosives until after they are mixed. With this restriction, the definition of manufacturer *does not* include:

- Inserting a detonator into a cast booster or a stick of high explosive product to make a primer for loading into a blast hole.
- The act of mixing on the blast site, either by hand or by mechanical apparatus, binary components, ammonium nitrate, fuel oil, and/or emulsion products to create explosives for immediate down blast hole delivery.

Misfire. The complete or partial failure of an explosive charge to explode as planned.

Mudcap (also known as bulldozing and doying). Covering the required number of cartridges that have been placed on top of a boulder with a three- or four-inch layer of mud, which is free from rocks or other material that could cause a missile hazard.

No-light. The failure of a safety fuse to ignite.

Nonelectric delay detonator. A detonator with an integral delay element in conjunction with and capable of being detonated by a:

- (a) Detonation impulse;
- (b) Signal from miniaturized detonating cord;
- (c) Shock tube.

Oxidizer. A substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

Permanent magazines. Magazines that:

- (a) Are fastened to a foundation;
- (b) Do not exceed permanent magazine capacity limits (RCW 70.74.040);
- (c) Are approved and licensed;
- (d) Are left unattended.

Person. Any individual, firm, partnership, corporation, company, association, person or joint stock association or trustee, receiver, assignee, or personal representative of that entity.

Person responsible. For an explosives magazine, means:

- (a) The person legally responsible for a magazine that actually uses the magazine;
- (b) The person is responsible for the proper storage, protection, and removal of explosives, and may be the owner lessee, or authorized operator.

Portable (field) magazines. Magazines that are:

- (a) Designed to be unattended;
- (b) Not permanently fastened to a foundation;
- (c) Constructed or secured to make sure they cannot be lifted, carried, or removed easily by unauthorized persons;
- (d) Limited to the capacity of explosives required for efficient blasting operation;
- (e) Approved and licensed.

Possess. The physical possession of explosives in one's hand, vehicle, magazine, or building.

Primary blasting. The blasting operation that dislodged the original rock formation from its natural location.

Primer. A unit, package, cartridge, or container of explosives inserted into or attached to a detonator or detonating cord to initiate other explosives or blasting agents.

Propellant actuated power device. Any tool, special mechanized device, or gas generator system, which is actuated by a propellant and releases and directs work through a propellant charge.

Public utility transmission systems.

- (a) Any publicly owned systems regulated by:
 - (i) The utilities and transportation commission;
 - (ii) Municipalities.
- (b) Other public regulatory agencies, which include:
 - (i) Power transmission lines over 10 kV, telephone cables, or microwave transmission systems;
 - (ii) Buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil or refined products and chemicals.

Purchaser. Any person who buys, accepts, or receives explosives or blasting agents.

Pyrotechnics (commonly referred to as fireworks). Any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects.

Qualified person. A person who has successfully demonstrated the ability to solve or resolve problems relating to explosives, explosives work, or explosives projects by:

- (a) Possession of a recognized degree or certificate;
- (b) Professional standing;
- (c) Extensive knowledge, training, and experience.

Railroad. Any type of railroad equipment that carries passengers for hire.

Safety fuse (for firing detonators). A flexible cord containing an internal burning medium by which fire is conveyed at a continuous and uniform rate.

Secondary blasting. Using explosives, mudcapping, or blockholing to reduce oversize material to the dimension required for handling.

Shock tube. A small diameter plastic tube:

(a) Used for initiating detonators;

(b) That contains a limited amount of reactive material so energy, transmitted through the tube by means of a detonation wave, is guided through and confined within the walls of the tube.

Small arms ammunition. Any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant actuated power devices and industrial guns.

Note: This does not mean military type ammunition containing explosive bursting incendiary, tracer, spotting, or pyrotechnic projectiles.

Small arms ammunition primers. Small percussion sensitive explosive charges encased in a detonator or capsule used to ignite propellant power or percussion detonators used in muzzle loaders.

Smokeless powder. Solid chemicals or solid chemical mixtures that function by rapid combustion.

Special industrial explosive devices. Explosive actuated power devices and propellant-actuated power devices.

Special industrial explosives materials. Shaped materials and sheet forms and various other extrusions, pellets, and packages of high explosives, which include:

(a) Dynamite;

(b) Trinitrotoluene (TNT);

(c) Pentaerythritol tetranitrate (PETN);

(d) Hexahydro-1, 3, 5-trinitro-s-triazine (RDX);

(e) Other similar compounds used for high-energy-rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

Springing. The creation of a pocket in the bottom of a drill hole by the use of a moderate quantity of explosives so that larger quantities of explosives may be inserted.

Sprung hole. A drilled hole that has been enlarged by a moderate quantity of explosives to allow for larger quantities of explosives to be inserted into the drill hole.

Stemming. A suitable inert incombustible material or device used to confine or separate explosives in a drill hole or cover explosives in mudcapping.

Trailer. Semi-trailers or full trailers, as defined by U.S. DOT, which are:

(a) Built for explosives;

(b) Loaded with explosives;

(c) Operated in accordance with U.S. DOT regulations.

U.S. DOT. The United States Department of Transportation.

Vehicle. Any car, truck, tractor, semi-trailer, full trailer, or other conveyance used for the transportation of freight.

Water-gels or emulsion explosives. These explosives:

(a) Comprise a wide variety of materials used for blasting. Two broad classes of water-gels are those which:

(i) Are sensitized by material classed as an explosive, such as TNT or smokeless powder;

(ii) Contain no ingredient classified as an explosive which is sensitized with metals, such as aluminum, or other fuels.

(b) Contain substantial proportions of water and high proportions of ammonium nitrate, some ammonium nitrate is in the solution in the water, and may be mixed at an explosives plant, or the blast site immediately before delivery into the drill hole.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60010 Purpose and intent. The purpose of this chapter is to define minimum requirements for the prevention and control of hazards related to the possession, handling, and use of explosives in order to:

((*) (1) Protect the safety and health of the general public;

((*) (2) Protect the safety and health of explosive industry employees covered under the Washington Industrial Safety and Health Act (chapter 49.17 RCW);

((*) (3) Develop, support, and maintain safe and healthy use of explosives in Washington state.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-60015 Coverage. This chapter applies to:

((*) (1) Any person, partnership, company, corporation, government agency, or other entity;

((*) (2) All aspects of explosives, blasting agents, and pyrotechnics including:

((-) (a) Manufacture;

((-) (b) Sale;

((-) (c) Possession;

((-) (d) Purchase;

((-) (e) Use;

((-) (f) Storage;

((-) (g) Transportation;

((-) (h) Avalanche control;

((*) (3) Display fireworks.

Note: Class A and B display fireworks are partially exempt from the requirements of this chapter (see WAC 296-52-60020(5)).

AMENDATORY SECTION (Amending WSR 14-08-024, filed 3/24/14, effective 5/1/14)

WAC 296-52-60020 Exemptions. (1) **The following are exempt from this chapter:**

(a) Explosives or blasting agents transported by railroad, water, highway, or air under the jurisdiction of the Federal Department of Transportation (DOT), the Washington state utilities and transportation commission, and the Washington state patrol.

(b) Laboratories of schools, colleges, and similar institutions if confined to the purpose of instruction or research and if the quantity does not exceed one pound.

(c) Explosives in the forms prescribed by the official United States Pharmacopoeia.

(d) The transportation, storage, and use of explosives or blasting agents in the normal and emergency operations of:

((*) (i) The United States agencies and departments including the regular United States military departments on military reservations;

((*) (ii) Arsenal, navy yards, depots, or other establishments owned by, operated by, or on behalf of, the United States;

((*) (iii) The duly authorized militia of any state; and

((*) (iv) The emergency operations of any state department or agency, any police, or any municipality or county.

(e) A hazardous devices technician when they are carrying out:

((*) (i) Normal and emergency operations;

((*) (ii) Handling evidence;

((*) (iii) Operating and maintaining a specially designed emergency response vehicle that carries no more than ten pounds of explosive materials;

((*) (iv) When conducting training and whose employer possesses the minimum safety equipment prescribed by the Federal Bureau of Investigation (FBI) for hazardous devices work.

Note: A hazardous devices technician is a person who is a graduate of the FBI Hazardous Devices School and who is employed by a state, county, or municipality.

(f) The importation, sale, possession, and use of fireworks, signaling devices, flares, fuses, and torpedoes.

(g) Reserved.

(h) Any violation under this chapter if any existing ordinance of any city, municipality, or county is more stringent.

(i) The transportation and storage of explosive actuated tactical devices, including noise and flash diversionary devices, by local law enforcement tactical response teams and officers in law enforcement department-issued vehicles designated for use by tactical response teams and officers, provided the explosive devices are stored and secured in compliance with regulations and rulings adopted by the federal bureau of alcohol, tobacco, firearms, and explosives.

(2) **Noncommercial military explosives.** Storage, handling, and use of noncommercial military explosives are exempt from this chapter while they are under the control of the United States government or military authorities.

(3) **Import, sale, possession, or use of:**

((*) (a) Consumer fireworks;

((*) (b) Signaling devices;

((*) (c) Flares;

((*) (d) Fuses;

((*) (e) Torpedoes.

(4) **Consumer fireworks.** Fireworks classified as Division 1.4 explosives by U.S. DOT and regulated through the state fireworks law (chapter 70.77 RCW) and the fireworks administrative code (chapter 212-17 WAC) by the Washington state fire marshal.

Note: Consumer fireworks are classified as fireworks UN0336 and UN0337 by U.S. DOT (49 C.F.R. 72.101).

(5) **Partial exemption—Division 1.1, 1.2, or 1.3 display fireworks.** Display fireworks are fireworks classified as Division 1.1, 1.2, or 1.3 explosives by US DOT. Users of Division 1.1, 1.2, or 1.3 display fireworks must comply with

all storage or storage related requirements (for example, licensing, construction, and use) of this chapter.

Note: Display fireworks are classified as fireworks UN0333, UN0334, or UN0335 by U.S. DOT (49 C.F.R. 172.101).

(6) **Conditional exemption small arms explosive materials.** Public consumers possessing and using:

((*) (a) Black powder, under five pounds;

((*) (b) Smokeless powder, under fifty pounds;

((*) (c) Small arms ammunition;

((*) (d) Small arms ammunition primers.

(-) Unless these materials are possessed or used illegally or for a purpose inconsistent with small arms use.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60030 The department. (1) **Administration and enforcement.** The director of labor and industries administers and enforces all activities governed by the Washington State Explosives Act through chapter 296-52 WAC using the full resources of the department.

(2) **Authority to enter, inspect, and issue penalties.** The department may enter and inspect any location, facility, or equipment and issue penalties for any violation whenever the director has reasonable cause to think there are:

((*) (a) Explosives;

((*) (b) Blasting agents;

((*) (c) Explosive materials.

(3) **Unlicensed activities.** Whenever the director requests an unlicensed person to surrender explosives, improvised devices, or their component parts, he may request the attorney general to apply to the county superior court in which the illegal practice was carried out for a temporary restraining order or other appropriate assistance.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60035 Other government entities. (1) **Law enforcement authorities.** The department:

((*) (a) Acknowledges the legal obligation of other law enforcement agencies to enforce specific aspects or sections of the Washington State Explosives Act under local ordinances and with joint and shared authority granted by RCW 70.74.201.

((*) (b) Will cooperate with all other law enforcement agencies in carrying out the intent of the Washington State Explosives Act and chapter 296-52 WAC.

(2) **Local government authorities.**

(a) This chapter does not prevent local jurisdictions from adopting and administering local regulations relating to explosives. Examples of local jurisdictions/regulations include:

((*) (i) City or county government explosive ordinances;

((*) (ii) Other government authorities such as the Washington utilities and transportation commission, the Washington state patrol, or Washington administrative codes.

(b) Local regulations must not diminish or replace any regulation of this chapter.

Note: A nonmandatory sample-blasting ordinance for local jurisdictions is included in Appendix B.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60055 Drug use. Explosives must not be handled by anyone under the influence of:

- ((*) (1) Alcohol;
- ((*) (2) Narcotics;
- ((*) (3) Prescription drugs and/or narcotics that endanger the worker or others;
- ((*) (4) Other dangerous drugs.

Note: This chapter does not apply to persons taking prescription drugs and/or narcotics as directed by a physician provided their use will not endanger the blaster, workers, or any other people.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60060 License revocation, suspension, and surrender. (1) **Revocation.** The department:

- (a) Will revoke and not renew the manufacturer, dealer, purchaser, blaster, or storage license of any person as a result of a disqualifying condition identified in WAC 296-52-61040, Applicant disqualifications.

(b) May revoke the license of any person who has:

- (i) Repeatedly violated the requirements of this chapter;
- (ii) Had a license suspended twice under this chapter.

(2) **Suspension.** The department may suspend the license of any person for a period up to six months for any violation of this chapter.

(3) **Surrender.** Revoked or suspended licenses must be surrendered immediately to the department after the chapter violators have been notified.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60080 Entry and access to explosive areas. Only the owner, owner's authorized agent, the director, or law enforcement officer(s) acting in an official capacity may enter into an:

- ((*) (1) Explosives manufacturing building;
- ((*) (2) Magazine;
- ((*) (3) Vehicle;
- ((*) (4) Other common carrier containing explosives.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60095 Fire. (1) **Magazines/buildings.** Flame or flame producing devices must not be ignited within fifty feet of any magazine or explosives manufacturing building.

(2) **Explosives handling.**

(a) All sources of fire or flame, including smoking and matches, are prohibited within one hundred feet of the blast site while explosives are being handled or used.

(b) Explosives must not be handled near:

- (i) Open flames;

(ii) Uncontrolled sparks; or

((✕))

(iii) Energized electric circuits.

(3) **Fire incident precautions.** In the event of a fire:

- (a) All employees must be removed to a safe area;
- (b) The fire area must be guarded against intruders;
- (c) The fire must not be fought where there is danger of contact with explosives.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60115 Explosive industry employers. In addition to the requirements of this chapter:

(1) Explosive industry employers must comply with other applicable WISHA requirements:

((*) (a) Chapter 296-800 WAC, Safety and health core rules;

((*) (b) Chapter 296-24 WAC, General safety and health standards;

((*) (c) Chapter 296-62 WAC, General occupational health standards;

((*) (d) Chapter 296-155 WAC, Safety standards for construction;

((*) (e) Other industry specific standards that may apply.

(2) Manufacturers of explosives or pyrotechnics must comply with WISHA safety standards for process safety management of highly hazardous chemicals, chapter 296-67 WAC.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60120 Variance from a chapter requirement. The director may approve a variance from a chapter requirement pursuant to RCW 49.17.080 or 49.17.090:

((*) (1) After an application for a variance is received((;));

((*) (2) After the department has conducted an investigation((;));

((*) (3) When conditions exist that make the requirement impractical to use((;)); and

((*) (4) When equivalent means of protection are provided.

Note: Variance application forms may be obtained from and should be submitted to: Department of Labor and Industries, WISHA Services Division, Post Office Box 44650, Olympia, WA 98504-4650.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-60125 Using standards from national organizations and federal agencies. To be in compliance with WISHA rules, the information provided in this section must be followed when safety and health standards from national organizations and federal agencies are referenced in WISHA rules.

((*) (1) The edition of the standard specified in the WISHA rule must be used.

((*) (2) Any edition published after the edition specified in the WISHA rule may be used.

Note: The federal and national consensus standards referenced in the WISHA rules are available through the issuing organization and the local or state library.

AMENDATORY SECTION (Amending WSR 08-15-139, filed 7/22/08, effective 12/1/08)

WAC 296-52-61010 License applicants must provide this information. (1) Individual applicants must provide the following information to the department:

~~((*) An individual must provide:~~

~~(-) (a) Their name((:));~~

~~(b) Their address((:)); and~~

~~(c) Their citizenship.~~

((*) (2) A partnership must provide:

(-) (a) The name, address, and citizenship for each partner;

(-) (b) The name and address of the applicant.

((*) (3) An association or corporation must provide:

(-) (a) The name, address, and citizenship for each officer and director;

(-) (b) The name and address of the applicant.

~~((2)) (4) Applicants must:~~

((*) (a) Meet any license specific requirements;

((*) (b) Provide their Social Security number (RCW 26.23.150);

((*) (c) Provide any information requested by the department before a new or renewal license will be issued.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-61015 License applicants must complete department forms. (1) Applications must be completed on department forms.

((*) (2) License application forms may be obtained from and submitted to:

Department of Labor and Industries
WISHA Services Division
Post Office Box 44655((:))
Olympia, WA 98504-4655.

Note: Purchaser and blaster license applications may also be obtained from explosive dealers or department service locations. (You will find a complete list of L&I service locations at www.lni.wa.gov.)

AMENDATORY SECTION (Amending WSR 08-15-139, filed 7/22/08, effective 12/1/08)

WAC 296-52-61030 Applicant participation. (1) Applicants((:

*) must cooperate and assist the department in all aspects of the application review.

((*) (2) Applicants must provide all information requested by the department to:

(-) (a) Verify application statements;

(-) (b) Help with any questions.

((*) (3) Applicants must furnish their fingerprints to the department on department forms.

(-) Fingerprinting and criminal history record information checks are required for management officials directly responsible for explosives operations.

((*) (4) Applicants must pay the fee to the department for processing the fingerprint card (RCW 70.74.360(1)).

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-61040 Reasons why applicants may be disqualified. (1) Licenses will not be issued for the manufacture, retail sale or purchase of explosives to any applicant who is any of the following:

((*) (a) Does not provide proof of a valid explosive license or permit issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF);

((*) (b) Under twenty-one years of age;

((*) (c) Whose license is suspended or revoked, except as provided in this section;

((*) (d) Convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

((*) (e) Legally determined at the time of application to be:

(-) (i) Mentally ill;

(-) (ii) Insane;

(-) (iii) Committed to a mental institution;

(-) (iv) Incompetent due to any mental disability or disease at the time of application.

Note: The department will not reissue a license until competency has been legally restored.

((*) (f) Physically ill or disabled, and cannot use explosives safely. Disqualifying disabilities may include, but are not limited to:

(-) (i) Blindness;

(-) (ii) Deafness;

(-) (iii) Epileptic or diabetic seizures or coma.

Note: The department will not reissue a license until the applicant's physical ability is verified by a qualified physician through the appeal process (WAC 296-52-60065, Violation appeals).

((*) (g) Who is an alien, unless:

(-) (i) They are lawfully admitted for permanent residence ((-); and

(-) (ii) They are in lawful nonimmigrant status.

((*) (h) Who has been dishonorably discharged from the United States armed forces;

((*) (i) Who has renounced their citizenship from the United States.

(2) A user (blaster) license will not be issued if the applicant is denied a receiver or employee possessor designation by ATF.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-62010 Dealer applicant information. The dealer applicant must:

((*) (1) Give the reason they want to participate in the business of dealing in explosives.

((*) (2) Provide information required by WAC 296-52-61010, License applicants must provide this information.

((*) (3) Provide other pertinent information required by the department.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-62025 Prohibit explosives items from sale or display in these areas. Explosives, improvised devices, or blasting agents cannot be sold, displayed, or exposed for sale on any:

- ((*) (1) Highway;
- ((*) (2) Street;
- ((*) (3) Sidewalk;
- ((*) (4) Public way; or
- ~~((*) (5) Public place.~~

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-62035 Authorized agent information.

A dealer must make sure the purchaser provides a list of people on their authorized agent list with the following information:

- ((*) (1) Name;
- ((*) (2) Address;
- ((*) (3) Driver's license number or valid identification;
- ((*) (4) Social Security number (as required by RCW 26.23.150);
- ((*) (5) Place of birth;
- ((*) (6) Date of birth.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-62040 Verification of customer identity. (1) Orders.

(a) An order for explosives can be placed:

- ((*) (i) In person;
- ((*) (ii) By telephone; or
- ~~((*) (iii) In writing.~~

(b) The dealer must receive proper authorization and identification from the person placing the order to verify the person is either the:

- ((*) (i) Purchaser; or
- ~~((*) (ii) Purchaser's authorized agent.~~

Note: This requirement does not apply to licensed common carrier companies when the common carrier:

- ((*) 1. Is transferring explosive materials from the seller to the purchaser; and
- ~~((*) 2. Complies with transfer practices of the state and federal U.S. DOT regulations.~~

(2) **Deliveries.** The dealer must:

(a) Not distribute explosive materials to an unauthorized person((-);

(b) Make sure the recipient is the purchaser or the purchaser's authorized agent((-);

(c) Verify the recipient's identity from a photo identification card (for example, driver's license)((-);

(d) Obtain the:

(i) Purchaser's magazine license number when explosives are delivered to a storage magazine.

(ii) Legal signature of the purchaser or the purchaser's authorized agent on a receipt documenting the explosives were received.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-62045 Recordkeeping and reporting.

(1) **Sale documentation.** A dealer must document the following information when an explosive materials order is placed. A dealer's record must include the:

- ((*) (a) Date explosive materials were sold;
- ((*) (b) Purchaser's name and license number;
- ((*) (c) Name of the person authorized by the purchaser to physically receive the explosive materials;
- ((*) (d) Kind of explosive materials sold;
- ((*) (e) Amount of explosive materials sold;
- ((*) (f) Date code.

Note: Black powder sales less than five pounds are not required to be reported to the department.

(2) **Retention of records and receipts.** Dealers must keep:

- ((*) (a) Signed receipts for a minimum of one year from the date explosives were purchased;
- ((*) (b) Records of explosives purchased and sold for a minimum of five years.

(3) **Monthly report.**

((*) (a) A monthly report of the dealer's records must be submitted to the department at the following address:

Department of Labor and Industries
WISHA Services Division
Post Office Box 44655
Olympia, WA 98504-4655

((*) (b) Dealer records must be received by the 10th day of each month.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-63010 Applicant information. Applicants must provide the following information to the department:

- ((*) (1) The reason explosives or blasting agents will be used;
- ((*) (2) The location where explosives or blasting agents will be used;
- ((*) (3) The kind of explosives or blasting agents to be used;
- ((*) (4) The amount of explosives or blasting agents to be used;
- ((*) (5) An explosives storage plan;

((-) (a) Documenting proof of ownership of a licensed storage magazine; or

((~~OR~~

-)) (b) With a signed authorization to use another person's licensed magazine; or

((~~OR~~

-)) (c) With a signed statement certifying that the explosives will not be stored.

((*) (6) An authorized agent list, if the purchaser chooses to authorize others to order or receive explosives on their behalf;

((*) (7) The identity and current license of the purchaser's blaster;

((*) (8) Information required by WAC 296-52-61010, License applicants must provide this information;

((*) (9) Any other pertinent information requested by the department.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-63020 Authorized agents. (1) Required information.

The purchaser must provide the following written information for people on their authorized agent list:

((*) (a) Legal name;

((*) (b) Address;

((*) (c) Driver's license number or other valid identification;

((*) (d) Date of birth;

((*) (e) Place of birth.

(2) **List distribution.** The purchaser must provide a current authorized agent list to:

((*) (a) The department when applying for a new or renewal license;

((*) (b) Any dealer the purchaser plans to order explosive materials from, prior to placing the order.

(3) **Notification of list changes.** The purchaser must make sure the dealer's and department's authorized agent lists are updated as changes occur.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-63025 Explosive order deliveries. (1) Receiver identification. Any person receiving explosives purchased from a dealer must:

((*) (a) Provide proper identification and prove to the satisfaction of the dealer that they are:

((-) (i) The purchaser; or

((~~OR~~

-)) (ii) Their authorized agent.

((*) (b) Sign their legal signature on the dealer's receipt.

(2) **Delivery locations.** Explosives must be delivered into:

((*) (a) Authorized magazines;

((*) (b) Approved temporary storage; or

((~~OR~~

*) (c) Handling areas.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-63030 Notify the department of blaster changes. The purchaser must:

((*) (1) Notify the department when the licensed blaster changes.

((*) (2) Provide their current blaster's license number to the department.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-64005 Responsibility to obtain a blaster's license. (1) No one may conduct a blasting operation without a valid blaster's license issued by the department.

Note: A blaster's license is not required for a "hand loader."

(2) **Blaster license classifications table.** The following information shows classifications for blasting licenses((-);

((*) (a) **Classification list assignment.** Classification list assignment is determined by the use of single or multiple series charges; and the knowledge, training, and experience required to perform the type of blasting competently and safely.

((*) (b) **Multiple list applications.** When an applicant wants to apply for multiple classifications and the classifications desired are from two or more classification table lists:

((-) (i) All classifications must be requested on the application;

((-) (ii) Qualifying documentation for all classifications being applied for must be included in the applicant's resume (WAC 296-52-64050, Applicant information). Training and experience may fulfill qualification requirements in multiple classifications.

((*) (c) **Request classifications not lists.** Applicants must request specific classifications (not list designations) on their blaster application. Licenses are not issued or endorsed for Classification Table lists A, B, or C.

((*) (d) **License additions.** To add a classification to an existing license, see WAC 296-52-64085, Changes to a blaster's license classification.

License Classifications Table					
LIST A		LIST B		LIST C	
AB	Aerial Blasting	DE	Demolition	BT	Bomb Technician*
AG	Agriculture	SB	Surface Blasting*	UL	Unlimited*
AV	Avalanche Control	UB	Underground Blasting		
ED	Explosives Disposal*	UW	Underwater Blasting		
FO	Forestry*				

License Classifications Table				
LIST A		LIST B		LIST C
LE	Law Enforcement*			
IO	Industrial Ordnance			
SE	Seismographic			
TS	Transmission Systems			
WD	Well Drilling			

* Detailed classification information.

((*) (e) **Aerial blasting.** Will require experience and passing aerial blasting test.

((*) (f) **Bomb technician.** Disposal of bombs, illegal fireworks and explosive devices.

((*) (g) **Explosives disposal.** Disposal of explosive materials by licensed blasters.

((*) (h) **Forestry.** Includes logging, trail building, and tree topping.

((*) (i) **Law enforcement.** Diversionary devices, explosive detection K-9 dog handlers, crowd control devices (stingers) requires taking a handlers test. Tactical entry (breaching) requires taking the tactical entry test.

((*) (j) **Surface blasting.** Includes construction, quarries, and surface mining.

((*) (k) **Unlimited.** Includes all classifications except underground blasting and law enforcement.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-64020 General qualifications for blasters. (1) **Physical condition.** An applicant must be in good physical condition.

(2) **Drug use.** An applicant cannot be addicted to narcotics, intoxicants, or similar types of drugs.

Note: This rule does not apply to physician prescribed drugs and/or narcotics when taken as directed if their use will not place the blaster, or other employees in danger.

(3) **Knowledge, experience, and performance in transportation, storage, handling, and use of explosives.** A blaster applicant must:

((*) (a) Have working knowledge of state and local explosives laws and regulations;

((*) (b) Have adequate blaster training, experience, and knowledge;

((*) (c) Be able to:

((-) (i) Safely perform the type of blasting to be used; and

~~((AND~~
-)) (ii) Recognize hazardous conditions;

((*) (d) Be competent in the use of each type of blasting method to be used

((*) (e) Have the ability to understand and give written and oral directions.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-64030 List A qualifications. To be considered for a blaster's license, limited to one or more List A classifications, an applicant must have a minimum of forty hours documented training accrued during the previous six years.

(1) The training must include a minimum of one of these three requirements:

((*) (a) Eight hours basic blaster safety classroom training and thirty-two hours classification specific field training experience under a qualified blaster;

((*) (b) Sixteen hours basic blaster safety classroom training and twenty-four hours classification specific field training experience under a qualified blaster;

((*) (c) Twelve months classification specific field training experience.

(2) Aerial blasting classification (~~(shall)~~ will require:

((*) (a) Standard avalanche control blaster's license;

((*) (b) Experience requirement of five missions under the supervision of a licensed aerial blaster;

((*) (c) Successful completion of a written exam.

Note: Additional personnel on board with a standard avalanche control blaster's license may log each mission toward the aerial blasting endorsement experience requirement.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-64035 List B qualifications. To be considered for a blaster's license, which includes one or more List B classifications, the applicant must meet one of the following requirements listed below:

((*) (1) Eighteen months of documented blasting experience which includes a minimum of twelve months of documented experience in List A and six months documented blasting experience in each classification being applied for in List B;

((*) (2) Twelve months of documented blasting experience in the past six years in the specific classification being applied for in List B.

Note: Up to eighty hours of classroom training may be substituted for experience.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-64040 List C qualifications. (1) **Unlimited classification.** To be considered for unlimited classification, the applicant must submit a detailed resume documenting:

((*) (a) Experience in the majority of the classifications in Lists A and B;

((*) (b) A minimum of five years of continuous full time blasting experience in the explosives industry where blasting has been the applicant's primary responsibility during the previous five years.

(2) **Bomb technician.** To be considered for a bomb technician classification, the applicant must:

((*) (a) Submit a copy of the certificate of graduation from the FBI Hazardous Devices School (HDS) basic course in Redstone, Alabama((-);

((*) (b) Submit a copy of the applicant's FBI Bomb Technician Certification identification card. The FBI Bomb Technician Certification card must bear a date that indicates that it is current at the time of application((-);

((*) (c) Submit a letter from the applicant's law enforcement agency's head (chief or sheriff) stating that the applicant is a full-time employee assigned to perform bomb technician duties as part of an FBI accredited bomb squad.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-64050 Blaster license applicant information. An applicant for a blaster's license must provide the following information to the department:

((*) (1) The application must be signed by the blasting course instructor and the qualified blaster the applicant trained under;

((*) (2) A detailed resume of blasting training and experience;

((*) (3) Satisfactory evidence of competency in handling explosives;

((*) (4) Information required by WAC 296-52-61010, License applicants must provide this information.

Note: The department may request additional information for the classification being applied for upon review of a blaster's resume.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-64065 Blaster license limits. (1) **A blaster's license documents:**

(a) The classifications the blaster is authorized to perform

(b) Any limitations imposed on the licensee.

(2) The licensee cannot:

(a) Perform blasting for which they are not licensed; or

((~~OR~~))

(b) Exceed the limits specified on the license.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-64085 Changes to a blaster's license classification. Additional blaster classifications may be added to a license. Applicants must:

((*) (1) Submit a detailed resume which documents blasting experience in the specific classification being applied for;

((*) (2) Pass a written exam prepared and administered by the department.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-64090 Blaster license renewal. The following requirements are for license renewal:

((*) (1) General applicant qualifications, WAC 296-52-64020, General qualifications, apply.

((*) (2) Renewal qualifications include the requirements of WAC 296-52-64090 License renewal, through WAC 296-52-64100, List C renewal qualifications.

((*) (3) Training, experience, and responsibility requirements must be accrued during the one year before the application is submitted.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-64095 List A and B renewal qualifications. The following requirements are for List A and B renewal qualifications:

(1) An application for a license renewal must include documentation of:

((*) (a) Blasting experience, by providing a minimum of one blast record; or

((~~OR~~

*) (b) Successful completion of eight hours of basic blaster's classroom training. The blasting course instructor must witness the submitted documentation.

(2) List A or B applicants who do not meet the minimum classification qualifications must pass a written exam administered by the department.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-64100 List C renewal qualifications. The following requirements are for List C renewal qualifications:

(1) **Unlimited classification.** To be considered for a renewal of an unlimited license, an applicant must submit a detailed resume documenting:

((*) (a) Experience in the majority of classification in List A and B;

((*) (b) Full-time blasting experience in the explosives industry, where blasting has been the applicant's primary responsibility.

(2) **Bomb technician.** To be considered for a renewal of the bomb technician classification, an applicant must:

((*) (a) Have continuous employment as a law enforcement bomb technician accrued during the previous year;

((*) (b) Submit a copy of their FBI Bomb Technician Certification identification card bearing the name of the person making application and an expiration date that indicates that the card is current and valid as of the date of renewal;

((*) (c) Submit a letter from the applicant's law enforcement agency's head (chief or sheriff) stating that the applicant is a full-time employee assigned to perform bomb technician duties as part of an FBI accredited bomb squad.

Note: ((*) If the applicant's card has expired at the time of renewal, they need to show that they are enrolled in the next available course at Redstone, Alabama.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-65010 Manufacturer applicant information. The manufacturer applicant must provide the following information to the department:

((*) (1) The reason the applicant wants to manufacture explosives;

((*) (2) The manufacturing or processing location;

((*) (3) The kind of explosives manufactured, processed, or used;

((*) (4) The distance that the explosives manufacturing building is located, or intended to be located, from other buildings, magazines, inhabited buildings, railroads, highways, and public utility transmission systems;

((*) (5) A site plan. The site plan must:

((-) (a) Include the distance each manufacturing building is located from:

((*) (i) Other buildings on the premises where people are employed;

((*) (ii) Other occupied buildings on adjoining property;

((*) (iii) Buildings where customers are served;

((*) (iv) Public highways;

((*) (v) Utility transmission systems;

((-) (b) Demonstrate compliance with:

((*) (i) Applicable requirements of the Washington State Explosives Act;

((*) (ii) The separation distance requirements of this chapter;

((-) (c) Identify and describe all natural or artificial barricades used to influence minimum required separation distances;

((-) (d) Identify the nature and kind of work being performed in each building;

((-) (e) Specify the maximum amount and kind of explosives or blasting agents to be permitted in each building or magazine at any one time;

((*) (6) Information required by WAC 296-52-61010, License applicants must provide this information;

((*) (7) Other pertinent information required by the department.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-65015 Manufacturing site inspections.

(1) The department will((=

*) inspect all manufacturing or processing locations:

((-) (a) Before they are placed in operation or service;

and

((~~AND~~

-) (b) Prior to licensing;

((*) (2) The department will schedule inspections:

((-) (a) Once a complete application is received;

((-) (b) At the earliest available and mutually agreeable date.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-65030 Site plan. The site plan must include:

(1) A copy of the site plan and manufacturer's license must be posted in the main office of each manufacturing plant.

(2) The site plan must be maintained and updated to reflect the current status of manufacturing facilities, occupancy changes, or other pertinent information.

(3) Notifying the department:

((*) (a) When a significant change occurs in the site plan;

((*) (b) For a consultation before changing operations if the change is of such nature or magnitude that compliance with requirements of this chapter is questionable.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-66010 Storage applicant information.

Applicants must provide the following information to the department:

((*) (1) The address or a legal description of the existing or proposed magazine or mobile storage site must be clearly identified;

((*) (2) The reason explosive materials will be stored;

((*) (3) The kind of explosives or blasting agents that will be stored;

((*) (4) The maximum quantity of explosive materials that are or will be stored;

((*) (5) Identify the total weight, in pounds, of all explosive materials to be stored on-site;

((*) (6) The distance that the magazine is located or intended to be located from other magazines, inhabited buildings, explosives manufacturing buildings, railroads, highways, and public utility transmission systems;

((*) (7) How long the storage license is needed;

((*) (8) Information required by WAC 296-52-61010, License applicants must provide this information;

((*) (9) Any other pertinent information requested by the department.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-66015 Storage site inspections. (1) The department will

- (*) inspect magazines, mobile-storage sites, and manufacturing plants:
 - (-) (a) Before being placed in operation or service;
 - (-) (b) Prior to licensing.
- (*) (2) The department will schedule inspections:
 - (-) (a) Once a complete application is received;
 - (-) (b) At the earliest available and mutually agreeable date.

Note: See WAC 296-52-66040, Annual storage inspection, for mobile storage site qualifications.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-66020 Demonstration of handling and storage experience. Applicants or officers, agents, or employees of the applicant, must demonstrate satisfactory experience in:

- (*) (1) Handling explosives;
- (*) (2) The storage requirements for any type of explosive materials to be stored.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-66053 Altering or destroying a licensed magazine. (1) When a magazine is altered, the licensee must notify the department with:

- (*) (a) The license number of the magazine;
- (*) (b) The specific alterations made to the magazine.

(2) When a magazine is destroyed, the licensee must notify the department with the license number of the magazine.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-66057 Transfer, sale or lease of a magazine or mobile storage site. (1) When a magazine or mobile storage site is leased, the owner of the magazine or mobile storage site must notify the department with:

- (a) The magazine license number or site license number;
 - (b) The name of the individual or company leasing the magazine or mobile storage site;
- (2) When a magazine or mobile storage site is transferred or sold from one entity to another, the previous owner/licensee ~~(shall)~~ must notify the department with:
- (a) The magazine license number or site license number;
 - (b) The date of the sale or transfer;
 - (c) The name of the individual or company to whom the magazine or mobile storage site was sold or transferred to;
 - (d) Who will be licensing the magazine or mobile storage site;
 - (e) The name of the contact person and phone number.

(3) A new owner/licensee of a magazine or mobile storage site ~~(is)~~ ~~(a))~~ is responsible for the safe operation of the magazine or mobile storage site ~~((b))~~. They must also:

- (*) (a) Submit a magazine storage application to the department;
- (*) (b) Pay the license fee for a minimum of one year;
- (*) (c) Obtain a storage license prior to storing explosive materials in the magazine or at the mobile storage site.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67010 Blaster in charge responsibilities. The blaster in charge is responsible for all aspects of explosives use and must:

- (1) Carry a current license with the correct blaster classification for the type of blasting being performed.
- (2) Comply with all federal, state, and local government regulations.
- (3) Meet the general license qualifications identified in WAC 296-52-64020, General qualifications.
- (4) Use every reasonable precaution to ensure the safety of the general public and workers. Reasonable precautions include the use of:
 - (a) Blast area surveys.
 - (b) Warning signal posters, which must be posted in suitable locations. Table T-1 shows the information that must be on the poster.

TABLE T-1

WARNING SIGNAL	A 1 minute series of long blasts 5 minutes prior to blast signal.
BLAST SIGNAL	A series of short blasts 1 minute prior to the shot.
ALL CLEAR SIGNAL	A prolonged blast following the inspection of the blast.

- (c) Flags and barricades.
- (d) Blasting mats or other suitable protective material.
- (5) Exercise and apply independent professional judgment regarding blasting activities, when following instructions from others could result in an illegal act or affect the outcome of a blast.
- (6) **Blast operation activities.** The blaster in charge must:
 - (*) (a) Have authority over all blasters and be able to promptly correct all actions taken in any area of the blast operation;
 - (*) (b) Manage the blast operation properly for any type of blasting being performed;
 - (*) (c) Control blast activities associated with a blast;
 - (*) (d) Supervise explosive material activities, which include:
 - (-) (i) Keeping a running inventory of all explosives and blasting agents stored at the blast area;
 - (-) (ii) Supervising all on-site transportation, storage, loading, and firing of explosives;
 - (*) (e) Notify local jurisdictions when blasting may affect them;

((*) (f) Designate safe locations for personnel during the blast;

((*) (g) Designate a method to determine when all personnel are accounted for in designated safe locations;

((*) (h) Make sure blast observers are able to communicate with the blaster in charge;

((*) (i) Make sure all possible exits to the blast site are observed immediately prior to each blast;

((*) (j) Distribute explosives in the shot;

((*) (k) Be present when a charge is detonated;

((*) (l) Personally detonate the charge or give an order to a designated blaster to detonate the charge.

(7) **Notification - Blast incidents.** The blaster in charge must notify the department within twenty-four hours when:

(a) A misfire is not cleared;

(b) Vibration and air blast limits cause injury or property damage;

(c) Flyrock causes injury or property damage.

(8) **Blast records.** The blaster in charge must:

(a) Keep an accurate inventory of all explosives and blasting agents stored at the blast operation;

(b) Keep a blast record with the following information:

((*) (i) Name of the company or contractor;

((*) (ii) Exact location of the blast;

((*) (iii) Date and time of detonation;

((*) (iv) Name, signature, and license number of the blaster in charge;

((*) (v) Type of material blasted;

((*) (vi) Type of explosives used;

((*) (vii) Number of holes, burden, and spacing;

((*) (viii) Diameter and depth of holes;

((*) (ix) Total amount of each type of explosives used;

((*) (x) Maximum amount of explosives per delay period within eight milliseconds;

((*) (xi) Maximum number of hole per delay period within eight milliseconds;

((*) (xii) Method of firing;

((*) (xiii) Type of circuit;

((*) (xiv) Direction, distance in feet, and identification of the nearest dwelling, house, public building, school, church, or commercial/institutional building not owned or leased by the blaster in charge conducting the blasting;

((*) (xv) Weather conditions;

((*) (xvi) Type and height (or length) of stemming;

((*) (xvii) A statement indicating whether blast mats or other flyrock protection were used;

((*) (xviii) Type of initiation system used;

((*) (xix) Type of delay periods used.

((*) (c) Have seismograph records and readings, if required or used, that must accurately identify the:

((-) (i) Name of the person and business analyzing the record;

((-) (ii) Exact location of the seismograph;

((-) (iii) Distance of the seismograph from the blast;

((~~Sketch~~) (d) Have sketches of the blast pattern. The sketch must include the:

((-) (i) Number of hole;

((-) (ii) Burden;

((-) (iii) Spacing distance delay pattern.

((~~Sketch~~) (e) Have sketches of the hole profile if decking was used;

((*) (f) Have general comments which include:

((-) (i) Unusual conditions/situations during the blast;

((-) (ii) The calculated scale distance number;

((-) (iii) Misfires;

((*) (g) Complete and sign each blast record;

((*) (h) Retain blast records for a minimum of three years;

((*) (i) Make sure blast records are available for department inspection.

Note: A nonmandatory sample blast record can be found in Appendix B. You may use this format or create your own but all the information in this section must be included.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67045 Handling explosives. Explosives must:

((*) (1) Be handled by only competent and authorized personnel;

((*) (2) Be delivered and issued only to a purchaser or a purchaser's authorized agent;

((*) (3) Be delivered into authorized magazines, approved temporary storage, or handling areas;

((*) (4) Be carried to the blast site from the main storage magazines by the blaster or blaster's helper in special insulated containers, day boxes, or original U.S. DOT shipping containers.

((*) (5) Never be carried in pockets or clothing, including detonators.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67050 Trainee supervision. Trainees and inexperienced personnel must work under the direct supervision of a fully qualified licensed blaster who knows the ((sites)) site's:

((*) (1) Blasting method;

((*) (2) Safety procedures;

((*) (3) Blasting signals.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67060 Extraneous electricity and radio frequency (RF) transmitters. Precautions must be taken to prevent unintended electric detonator discharge from extraneous electricity and radio frequency (RF) transmitters. The following are sources of common hazards for extraneous electricity and RF transmissions:

(1) **Extraneous electricity.** Common hazardous sources of extraneous electricity include:

((*) (a) Adjacent power lines;

((*) (b) Dust storms;

((*) (c) Lightning storms.

(2) **RF transmission sources.** Common hazardous sources of RF transmissions include:

((*) (a) Mobile transmitters:

- ((-) (i) Citizen band (CB);
- ((-) (ii) Side band radio;
- ((-) (iii) VHF (FM) radio;
- ((-) (iv) UHF cellular telephones;
- ((-) (v) Radar;

((*) (b) Fixed location transmitters:

- ((-) (i) Base stations for CB;
- ((-) (ii) Side band or FM radio communications;
- ((-) (iii) UHF cellular telephone transmitters and service extension repeater systems;
- ((-) (iv) AM and FM (commercial) radio broadcast transmitters;
- ((-) (v) TV broadcast transmitters and repeater system transmitters;

- ((-) (vi) Surface scan and radio navigation beacons.

((*) (c) Low flying aircraft (in particular military aircraft) create the most common serious RF exposures. These highly unpredictable mobile transmitters are very powerful and transmit on a broad spectrum of frequencies, which include, but are not limited to:

- ((-) (i) Radar;
- ((-) (ii) Laser;
- ((-) (iii) All common communications bands.

Note: The two most dangerous examples are:
 - Low flying automatic terrain following guidance systems
 - Airplanes which are equipped to jam all common radar and communications frequencies for a distance of several miles around the airborne transmitters.

(3) **Transportation.** Transportation of explosives must meet these requirements:

((*) (a) Public highways. The Washington utilities and transportation commission (UTC) and Washington state department of transportation (WSDOT) require compliance with ANSI D6.1-1988, Uniform Traffic Control Devices;

((*) (b) Private roads. You do not have to comply with ANSI on private roads under department jurisdiction if required warning signs are properly placed when electric detonators are present.

(4) **Site survey.** The blaster in charge must conduct or assign a designated appointee to conduct an accurate survey of the entire blast area, to determine:

((*) (a) The clearance points where roads or right of ways enter and exit the required clearance zone;

((*) (b) If the one thousand-foot clearance zone needs adjusting to maintain the permissible clearance zone at all times, if the blast area moves as the job progresses.

(5) Clearance zones.

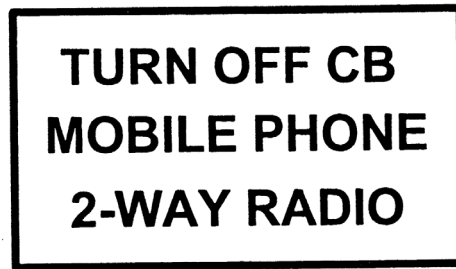
Required clearance zones for:	Number of feet
Construction operations	1000 feet
Demolition operations	1000 feet
General industry operations, not subject to construction requirements	350 feet

(6) RF-transmitter warning signs.

RF-TRANSMITTER WARNING SIGNS



**W22-1
48" X 48"**



42" X 36"



**W22-3
42" X 36"**

(a) RF-transmitter warning-sign specifications.

- Signs must:
- ((*) (i)** Be a specific size. See the signs above for sign dimensions;
 - ((*) (ii)** Have a "construction" orange background;
 - ((*) (iii)** Have black letters and borders;
 - ((*) (iv)** Use all upper case letters that are at least the size shown above.

Note: Larger signs may be required where the highway speed limit is more than fifty-five miles per hour.

(b) Posting warning signs must:

- ((*) (i)** Be adequately placed to warn:
- ((-) (A)** All transmitter users against the use of:
- ((*) (I)** Radio frequency transmitters;
- ((*) (II)** CBs;
- ((*) (III)** Mobile phones;

((*) (IV) Two-way radios.

((*) (B) All users of routes into the electric detonator clearance zone.

((*) (ii) Be prominently displayed when an electric detonator initiation system is being used during blasting operations and when the electric detonators have been removed from the original U.S. DOT approved shipping container.

((*) (iii) Be posted at the beginning of the blast zone minimum clearance point saying:

"TURN OFF CB, MOBILE PHONE, 2-WAY RADIO"

(c) **Blast zone signs.**

((*) (i) The "BLAST ZONE 1,000 FEET" sign must be posted one thousand feet before the "TURN OFF CB, MOBILE PHONE, 2-WAY RADIO" sign.

((*) (ii) The one thousand-foot separation distance limit may be reduced (not less than three hundred feet) in very slow vehicle travel zones (such as off-road construction right of ways, rock pits, or quarries).

(d) An "END BLAST ZONE" sign must be posted outside the blasting zone clearance limits.

(e) Signs must be covered or removed when blasting operations are not being conducted.

(7) **Voltage identification.** Electrical transmission and distribution line voltage must be accurately identified.

(8) **System clearance identification.** The required clearance for each system must be accurately identified.

(9) **RF transmitters.** Mobile RF transmitters must be deenergized or disconnected when they are less than one hundred feet from electric detonators that are not fully contained in their original U.S. DOT shipping containers.

Note: Fixed location RF transmitters represent a higher level of hazard to both storage and blasting operations involving electric detonators because the transmitters are more powerful and transmit dangerous levels of RF exposure over much greater distances.

(10) **Prevention of radio frequency hazards:**

(a) Electric detonators in storage or at blasting operations must meet the appropriate distance table requirements published in the IME Publication Number 20, 1988, "*Safety Guide for the Prevention of Radio Frequency Hazards in the Use of Commercial Electric Detonators (Blasting Caps)*."

(b) If it is necessary to conduct blasting operations inside the required separation distances specified in the IME Pamphlet Number 20, 1988:

((*) (i) Storage and use of electric detonators is prohibited on the site.

((*) (ii) Only detonating cord, safety fuse, shock tube, or other approved nonelectric systems can be used.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67070 Storage at blast sites. (1) Packaging materials. Empty boxes, paper, and fiber packing materials that have previously contained explosive materials must be:

((*) (a) Disposed of in a safe manner; or

~~((*)~~

(*) (b) Reused in accordance with U.S. DOT hazardous materials regulations.

(2) **Opening fiberboard cases.** Nonsparking metallic slitters may be used for opening fiberboard cases.

(3) **Deteriorating explosives.** Deteriorating explosives must be carefully set aside and disposed of according to the manufacturer's specifications.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-67080 Drilling. (1) Unexploded charges.

(a) Drilling cannot begin:

(i) When there is danger of drilling into a charged or mis-fired hole.

(ii) Until all remaining butts of old holes are examined for unexploded charges.

(b) Unexploded charges must be refired before work proceeds.

(2) **Distance limits during drilling.** Blasters cannot load or use explosives closer than:

(a) The length of the steel being used for drilling; or

~~((*)~~

(b) Within fifty feet of drilling operations, whichever is greater.

(3) **Prior to loading drill holes.**

(a) Holes must be checked prior to loading to determine depth and conditions.

(b) Drill holes that have contained explosives or blasting agents cannot be deepened.

(c) Drill holes must be large enough to allow unobstructed or free insertion of explosive cartridges.

(4) **Enlarging or springing a drill hole.**

(a) A drill hole cannot be sprung when it is near a loaded hole.

(b) A minimum of two hours must pass after a charge has exploded in a drill hole that was enlarged or "sprung," before loading another charge of explosives into the hole.

Note: You do not have to wait two hours if the sprung hole is thoroughly wet down with water before it is loaded.

(c) Flashlight batteries cannot be used as a power source for springing holes.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67085 Loading blast holes. (1) Power lines and portable electric cables. Power lines and portable electric cables must be kept at a safe distance from explosives or blasting agents being loaded into drill holes.

(2) **Equipment, machinery, and tools.**

((*) (a) Any machine or tool not being used to load holes must be removed from the immediate loading area.

((*) (b) Equipment cannot be operated within fifty feet of loaded holes except when:

(-) (i) It is needed to add burden or mats;

(-) (ii) Tracking drills out of the loading area.

(3) **Holes that may be loaded.** Only holes that will be fired in the next blasting round may be loaded.

(4) Tamping.

(a) A primer must never be tamped.

(b) Tamping must be done with wood rods or approved plastic tamping poles that do not have exposed metal parts.

(c) Nonsparking metal connectors may be used for jointed poles.

(d) Violent tamping must be avoided.

(5) **Pneumatic loading.** When loading blasting agents pneumatically over primed boosters:

((*) (a) A semiconductive delivery hose must be used;

((*) (b) Equipment must be bonded and grounded.

(6) **Stemming.** All blast holes in open work must be stemmed to:

(a) The collar((~~r~~); or

~~OR~~); or

(b) A point, which will confine the charge.

(7) **Attendance of holes.** Loaded holes must be attended or protected.

(8) **Unused explosives.** After loading, all remaining explosives and detonators must be immediately returned to an authorized magazine or day box.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-67090 Initiation systems. (1) General initiation rules.

(a) Training and supervision.

(i) The blaster in charge must provide adequate on-the-job training and supervision in the safe use of initiation systems.

(ii) All members of the blasting crew must be instructed, by the blaster in charge, in the safe use of the initiation system to be used and its system components.

(b) **Manufacturer recommendations.** All initiation systems and system components must be used in accordance with manufacturer recommendations and instructions.

(c) Vehicle use precautions.

(i) Explosives bulk trucks or other vehicles operated on a blast site cannot tread on:

(A) Tubing;

(B) Connectors; or

((~~OR~~))

(C) Any surface delay component.

(ii) If a vehicle must pass over loaded blast holes. Precautions must be made to consolidate tubing, connectors, or any surface delay component at the collar of the hole to prevent vehicle contact.

(d) **Connecting the firing line.** Firing lines cannot be connected to the blast initiating device until all personnel are:

(i) Accounted for;

(ii) Removed from the blast danger area; or

((~~OR~~

Are)) (iii) In a blast shelter or other location that provides equivalent protection.

(e) **Visual inspection.** The blaster in charge must visually inspect the initiation system to make sure it is assembled according to the manufacturer's recommendations, before firing the shot.

(f) Explosives not used:

(i) Unused detonators or short capped fuses cannot be placed in holes that may be used for blasting.

(ii) Unused detonators must be removed from the work area and disposed of or stored in a licensed magazine.

(iii) Loose cartridges of explosives, detonators, primers, and capped fuses that are not used by the end of the work shift must be returned to and locked in their magazines.

(2) Nonelectric initiation systems.

(a) **Shock tube lines.** When a nonelectric shock tube initiation system is used:

(i) Spools of shock tube lines cannot be spooled from trucks or equipment.

(ii) The shock tube line must:

(A) Be free of knots and tight kinks;

(B) Be free of cuts or abrasions that could expose the core to moisture;

(C) Not be stretched;

(D) Be neat and orderly.

(iii) Tie ins must be kept neat and clean.

(iv) Unused lead line must be sealed to prevent moisture and dirt from entering the tube.

(v) Care must be taken to avoid hitting the tube with a shovel when the shock tube is being covered.

(vi) The end of the detonator must be pointed toward the front of the shot to minimize the chance of shrapnel flying to the rear of the blast where the shock tube will be lit.

(b) **Surface connector blocks.** Nonelectrical tubes must:

(i) Be secured properly in surface connector blocks.

(ii) Never exceed the rated capacity of tubes in surface connector blocks.

(c) **Splicing line.** A knot must be tied in the tubes to take the strain off of the splice.

(d) **Detonator cord.** If a detonator cord is used for surface tie in:

(i) All lines must be kept taut.

(ii) Connections to nonelectrical units must be at ninety degree angles.

(e) Equipment and personnel.

(i) Equipment cannot roll over shock tubes.

(ii) All unnecessary equipment and personnel must be removed from the blast area during loading.

(3) Electric initiating systems.

(a) **Survey of extraneous currents.** A survey to evaluate extraneous currents must be conducted:

(i) By the blaster in charge before adopting any system of electrical firing.

(ii) To eliminate all currents before holes are loaded.

(b) **Detonator compatibility, style, function, and manufacture.** In any single blast using electric detonators, all detonators must be:

(i) Compatible with each other.

(ii) Of the same style or function.

(iii) From the same manufacturer.

(c) Wire capacity and gauge.

(i) Connecting wires and lead wires must:

(A) Be insulated single solid wires with sufficient current carrying capacity.

(B) Not be less than twenty gauge (American wire gauge) solid core insulated wire.

(ii) Firing line or lead wires must:

(A) Be made of solid single wires with sufficient current carrying capacity.

(B) Not be less than fourteen gauge (American wire gauge) solid core insulated wire.

Note: Bus wires, depends on the size of the blast, fourteen gauge (American wire gauge) copper is recommended.

(d) **Lead wires.**

(i) **Shunting.** You must shunt the ends of lead wires that will be connected to a firing device by twisting them together before they are connected to leg or connecting wires.

(ii) **Control.** The blaster in charge must keep control of shunted lead wires until loading is completed and the leg wires are attached.

(iii) **Attachment.** Lead wires must be attached by the blaster in charge when it is time to fire the shot.

(e) **Detonator leg wires.** Electric detonator leg wires must:

(i) Be kept shunted (short circuited) until they are connected into the circuit for firing.

(ii) Not be separated (except for testing) until all holes are loaded and the loader is ready to connect the leg wires to the connecting or lead wires.

(f) **Circuits.**

(i) Blasting circuits or power circuits must be used in electric blasting and according to the electric detonator manufacturer's recommendations.

(ii) Care must be taken to make sure an adequate quantity of delivered current is available according to the manufacturer's recommendations, when firing a circuit of electric detonators.

(iii) A power circuit used for firing electric detonators cannot be grounded.

(iv) The firing switch must be designed so the firing lines to the detonator circuit automatically short circuit when the switch is in the "off" position.

(v) The firing switch must be locked in the "open" or "off" position at all times, except when firing from a power circuit.

(g) **Firing line insulation.** The insulation on all firing lines must be adequate and in good condition when firing electrically.

(h) **Testing.**

(i) The firing line must be checked at the terminals with an approved testing device before being connected to the blasting machine or other power sources.

(ii) The circuit, including all detonators, must be tested with an approved testing device before being connected to the firing line.

(i) **Switch keys.** The blaster in charge is the only person who is allowed to have firing switch keys in their possession.

(j) **Blasting machines.** A nonelectric system must be used if these requirements cannot be satisfied:

(i) Blasting machines must be in good condition.

(ii) The efficiency of the blasting machine must be tested periodically to make sure it delivers power at its rated capacity.

(iii) **Responsible person.**

((*) (A) The blaster in charge must be in charge of blasting machines.

((*) (B) The blaster in charge must connect the lead wires to the blasting machine and must fire the shot.

(iv) **Connections.**

((*) (A) When firing with blasting machines, connections must be made according to the manufacturer of the electric detonator's recommendations.

((*) (B) All connections must be made from the drill hole back to the source of the firing current.

((*) (C) Lead wires must remain shunted and not connected to the blasting machine or other source of current until the charge is ready to fire.

((*) (D) The number of electric detonators connected to a blasting machine cannot exceed the blasting machine's rated capacity.

(v) **Series circuit.** In primary blasting, a series circuit cannot contain more detonators than the manufacturer's recommended limits for electric detonators.

(vi) **Circuit testing.** A blaster in charge must use blasting testers specifically designed to test circuits to charged holes.

(vii) **Blasting near power lines.** Whenever lead or blasting wires could be thrown over live overhead powerlines, communication lines, utility services, or other services or structures by the force of an explosion, care must be taken to make sure:

(A) The total length of wires are short enough so they will not hit the lines.

(B) The wires are securely anchored to the ground.

(C) The owners or operators of the utilities in the blast area are notified.

(viii) **Disconnecting lead wires.** After firing an electric blast from a blasting machine, lead wires must be immediately disconnected from the machine and short-circuited.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67100 Use of detonating cord. (1) **Cord selection.** Care must be taken to select a detonating cord consistent with the:

((*) (a) Type and physical condition of the drill hole;

((*) (b) Stemming;

((*) (c) Type of explosives used.

(2) **Handling.** A detonating cord must be handled and used with:

((*) (a) The same respect and care given to other explosives;

((*) (b) Care to avoid damaging or severing the cord during and after loading and hooking up.

(3) **Calculating quantity and distance.**

((*) (a) For quantity and distance purposes, a detonating fuse (up to sixty grains per foot) should be calculated as equivalent to nine pounds of high explosives per one thousand feet;

((*) (b) Heavier cord loads should be rated proportionally.

(4) Trunk lines.

(*) (a) Detonators for firing the trunk line cannot be brought to the loading area or attached to the detonating cord until everything else is ready for the blast.

(*) (b) All detonating cord trunk lines and branch lines must be free of loops, sharp kinks, or angles that direct the cord back toward the oncoming line of detonation.

(*) (c) Trunk lines in multiple row blasts must make one or more complete loops, with cross ties between loops at intervals less than two hundred feet.

(5) Connections.

(a) **Detonating cord.** All detonating cords must be:

(i) Competent and positive in accordance with the manufacturer's recommended specifications.

(ii) Kept at right angles to the trunk lines.

(iii) Inspected before firing the blast.

(b) Knots.

(i) Knot or other cord-to-cord connections must be made with a detonating cord where the explosive core is dry.

(ii) All detonator cord knots must be tight.

(c) Connecting detonators.

(i) A detonator or electric detonator must be taped or securely attached along the side or end of the detonating cord. The detonator end containing the explosive charge must be pointed in the direction of the detonation.

(ii) Manufacturer's recommendations must be followed when short interval delay electric detonators are used with a detonating cord.

(iii) Manufacturer's recommendations must be followed when detonating cord millisecond delay connectors are used with a detonating cord.

(iv) The line of detonating cord extending from a drill hole or a charge must be cut from the supply spool before loading the remainder of the drill hole or placing additional charges.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67110 Precautions after firing. (1) **Immediately after firing.** Immediately after firing, the blaster in charge must:

(a) Disconnect the firing line from the blasting machine.

(b) Lock the power switches in the "open" or "off" position.

(c) Carefully trace all wires and search for unexploded charges.

(2) **Post blast inspection.** The blaster in charge must perform an inspection of the area and surrounding rubble to determine if all charges have been exploded before employees are allowed to return to the operation.

(3) Misfires.

(a) **Misfire found.** Misfires must be:

(i) Immediately reported to their supervisor.

(ii) Recorded on the blast record.

(iii) Reported to the department within twenty-four hours if not cleared.

(b) **Responsible person.** A blaster in charge must be present and direct the handling of all misfires.

(c) Termination of work.

(i) All work must stop, except activities needed to remove the misfire hazard.

(ii) Drilling, digging, or picking is not permitted until:

(A) All misfired holes have been detonated; or

~~((OR))~~

(B) The blaster in charge determines work can proceed.

(d) **Evacuation precautions.** The following evacuation precautions must be taken in the event of a misfire:

(i) If a misfire is found, the blaster in charge must make sure safeguards are in place to keep all employees or other personnel from the danger zone, except those needed to remove the misfire hazard.

(ii) Workers cannot return to misfired holes for at least:

(A) Thirty minutes when electric blasting caps are used;

(B) One hour when detonators and fuses are used.

(e) Charged or misfired holes.

(i) Attempts cannot be made to remove explosives from any charged or misfired hole.

(ii) A new primer must be connected and the hole refired.

(f) **Refiring hazard.** If refiring a misfired hole presents a hazard, explosives may be:

(i) Removed by washing out the explosives with water;

or

~~((OR))~~

(ii) Removed with air, if the misfire is under water.

(4) Burning holes.

(a) Everyone in the endangered area must move to a safe location when explosives are suspected of burning in a hole.

(b) No one, under any circumstances, may return to the hole:

(i) Until the danger has passed; or

~~((OR))~~

(ii) For at least one hour after the hole has been found.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67115 Excavation work in pressurized air locks. (1) **Receiving, handling, storing, and transportation.**

(a) The blaster in charge or powder person is responsible for the receipt, unloading, storage, and on-site transportation of explosives and detonators.

(b) Explosives in transit cannot be left unattended.

(c) Detonators and explosives for each round must be taken directly from the magazines to the blasting zone and immediately loaded.

(2) **Wet holes.** Explosives appropriate for use in wet holes must be:

(a) Water resistant; and

~~((AND))~~

(b) Fume Class 1 or other approved explosives.

(3) **Bonding.** All metal pipes, rails, air locks, and steel tunnel linings must be:

(a) Electrically bonded together and grounded at or near the portal or shaft.

(b) Cross bonded together at not less than one thousand-foot intervals throughout the length of the tunnel.

(4) Air locks.

(a) No one is allowed to enter the air lock when detonators or explosives are brought in, except:

- (i) The blaster in charge.
- (ii) The powder person.
- (iii) The lock tender.
- (iv) Employees needed to carry explosive materials.

(b) Primers, detonators, and explosives must be taken separately into pressure working locks.

(c) Material, supplies, or equipment cannot be brought into air locks with explosive materials.

(d) Detonators and explosives not used after loading a round must be removed from the working chamber before connecting the connecting wires.

(5) **Grounding.** Each air supply pipe must be grounded at its delivery end.

(6) Mixed face.

(a) Light charges and light burdens must be used for each hole when tunnel excavation in rock face is approaching or is in mixed face.

(b) Advance drilling must be done when tunnel excavation in rock face approaches mixed face to determine the:

- (i) General nature and extent of rock cover; and
~~((AND))~~
- (ii) Distance to soft ground as excavation advances.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67130 Fixed location mixing. (1) **Building location.** Buildings or other facilities used for manufacturing blasting agents must meet the separation distance requirements of Table H-21 for inhabited buildings, passenger railroads, and public highways.

(2) **Building construction.** Buildings used for mixing blasting agents must be constructed of noncombustible material or sheet metal on wood studs and be well ventilated.

(3) **Determining distance.** When determining the distances separating highways, railroads, and inhabited buildings from potential explosions (Table H-20), the sum of all masses that may propagate (i.e., lie at distances less than specified in Table H-22) from either individual or combined donor masses are included in the sum. However, when the ammonium nitrate is included, only fifty percent of its weight must be used because of its reduced blast effects.

(4) Heat sources.

(a) **Internal heating units.** Properly designed and located heating units that do not depend on combustion processes may be used in the building.

(b) **External heating units.** All direct sources of heat must be located outside the mixing building.

(5) **Mixing plant floors** must be made of nonabsorbent materials such as concrete.

(6) Electrical equipment.

(a) Electrical switches, controls, motors, and lights located in the mixing room must:

- (i) Comply with the requirements of WAC 296-800-280.
- (ii) Be located outside the mixing room.

(b) The frame of the mixer and all other equipment must be:

(i) Electrically bonded.

(ii) Provided with a continuous path to ground.

(7) Internal combustion engines.

(a) **Location.** All internal combustion engines used for electric power generation must be:

(i) Located outside the mixing plant building(~~(-~~
~~OR))~~; or

(ii) Properly ventilated and isolated by a firewall.

(b) **Exhaust systems.** Engine exhaust systems must be positioned so spark emission does not become a hazard to any material in or adjacent to the plant.

(8) **Mixing equipment.** Equipment used for mixing blasting agents must comply with the following:

(a) **Design.** The design of the mixer must:

(*) (i) Minimize the possibility of frictional heating, compaction, and confinement;

(*) (ii) Have the bearings and drive assemblies mounted outside the mixer and protected against the accumulation of dust;

(*) (iii) Have the surfaces accessible for cleaning.

(b) **Construction.** Mixing and packaging equipment must be constructed of materials compatible with the fuel ammonium nitrate composition.

(c) **Fire precautions.** The following fire precautions must be followed:

(i) **Mixer fuel oil flow.** In case of fire:

(A) Appropriate means to prevent the flow of fuel oil to the mixer must be provided.

(B) An automatic spring-loaded shutoff valve with fusible link must be installed in gravity flow systems.

(ii) **Flame/spark producing devices.** Smoking, matches, open flames, spark-producing devices, and firearms (except firearms carried by law enforcement bomb squad members or qualified guards), are not allowed inside or within fifty feet of any facility used for mixing blasting agents.

(9) **Blasting agent compositions.** The following are requirements for determining blasting agent compositions:

(a) **Determining sensitivity.** The sensitivity of the blasting agent must be determined by means of a Number 8 test detonator at regular intervals and after every change in formulation.

(b) **Handling precautions.** Precautions must be taken when handling:

(*) (i) Small particle oxidizers, such as crushed ammonium nitrate prills or fines, may be more sensitive than coarser products and must be handled with greater care;

(*) (ii) Solid fuels must be used in a manner to minimize dust explosion hazards;

(*) (iii) Metal powders, such as aluminum, must be:

(-) (A) Kept dry; or

~~((OR~~

-)) (B) Stored in moisture resistant or weather tight containers or bins.

(c) **Use restrictions.** The following cannot be used:

(i) Crude and crankcase oil;

(ii) Hydrocarbon liquid fuel with a flash point lower than the 125°F minimum for Number 2 diesel fuel oil; or

~~((OR))~~

(iii) Peroxides and chlorates.

(10) **Fuel oil storage.**(a) **Facilities.** Fuel oil storage facilities must be:(i) Independent structures; or~~((OR))~~

(ii) Located at a site away from the manufacturing building.

(b) **Surrounding area.** In order to prevent oil from draining toward a manufacturing building in the event of a tank rupture, the surrounding grounds must slope away from the building.(11) **Safety precautions.** Safety precautions at mixing plants must include these requirements:(a) **Floor construction.** Floors must be constructed to eliminate floor drains and piping where molten materials could flow and be confined, in case of fire.(b) **Mixing/packaging room.** The floors and equipment of the mixing and packaging room must be cleaned regularly and thoroughly to prevent accumulation of oxidizers, fuels, and other sanitizers.(c) **Housekeeping.** The following housekeeping requirements must be followed:(i) **Mixing plant.** The mixing and packaging plant must:

(A) Be cleaned regularly and thoroughly to prevent excessive accumulation of dust.

(B) Safely dispose of empty ammonium nitrate bags daily.

(ii) **Surrounding area.** The land surrounding the mixing plant must be kept clear of brush, dried grass, leaves, and other materials for a minimum of twenty-five feet.(d) **Welding.**

(i) Welding or open flames are not permitted in or around the mixing or storage area of the plant unless:

(A) The equipment or area has been completely washed; and~~((AND))~~

(B) All oxidizer material has been removed.

(ii) Before welding or repairing hollow shafts:

(A) Oxidizer materials must be removed from the inside and outside of the shaft; and~~((AND))~~

(B) The shaft must be vented with a minimum 1/2-inch diameter opening.

(e) **Explosives.** Explosives are not permitted inside or within fifty feet of any facility used for mixing blasting agents.AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)**WAC 296-52-67135 Bulk delivery/mixing vehicles.****Note:** This section applies to both off-highway operations and public highway transportation.(1) **Vehicles.** These vehicle requirements must be followed:(a) **Strength.** A bulk delivery vehicle must be strong enough to carry a load without difficulty.(b) **Mechanical condition.** A bulk delivery vehicle must be in good mechanical condition.(c) **Body.** A bulk vehicle body for delivering and mixing blasting agents must:

(i) Be constructed of noncombustible materials.

(ii) Have closed bodies if they are used to transport bulk premixed blasting agents.

(d) **Mixing system parts.**

(i) All moving parts of the mixing system must be designed to prevent heat buildup.

(ii) Shafts or axles which contact the product must have outboard bearings with a minimum of one-inch clearance between the bearings and the outside of the product container. Special attention must be given to the clearances on all moving parts.

(e) **Welding.**

(i) Welding or open flames are not permitted in or around the mixing or storage area of the plant unless the equipment or area has been completely washed and all oxidizer material removed.

(ii) Before welding or repairing hollow shafts:

(A) All oxidizer material must be removed from the inside and outside of the shaft; and~~((AND))~~

(B) The shaft must be vented with a minimum 1/2-inch diameter opening.

(2) **Vehicle operation.** Operation of bulk delivery and mixing vehicles must comply with WAC 296-52-680, Transportation of explosive material, U.S. DOT placard requirements, and these requirements:(a) **Driver training.** The vehicle driver must be:

(i) Trained in the safe operation of the vehicle, mixing, conveying, and related equipment.

(ii) Familiar with the load being delivered and general procedures for handling emergencies.

(b) **Cargo and containers.** Cargo and containers must:

(i) Haul either detonators or other explosives, but not both, it is permitted on bulk trucks provided a special wood or nonferrous-lined container is installed for explosives.

(ii) Be U.S. DOT specified shipping containers, according to 49 C.F.R. Chapter 1.

(c) **Moving a vehicle in the blast area.** When moving a vehicle in the blast area:(i) The driver must exercise caution to avoid driving the vehicle onto or dragging hoses over firing lines, cap wires, or explosive materials; and~~((AND))~~

(ii) A second person must help guide the vehicle driver's movements.

(3) **Pneumatic loading.** Pneumatic loading from bulk delivery vehicles into blast holes primed with electric detonators or other static sensitive systems must comply with these requirements:

(a) A positive grounding device must be used to prevent accumulation of static electricity.

(b) A discharge hose must:

(i) Have a resistance range that will prevent conducting stray currents; or~~((OR))~~

(ii) Be conductive, to bleed off static buildup.

(c) A qualified person must evaluate all static sensitive systems to determine if they will adequately dissipate static under potential field conditions.

(4) **Repairs.** Bulk delivery vehicle repair must comply with the requirements of this section.

(5) **Prohibited activities.** The following are prohibited:

(a) In-transit mixing of materials.

(b) While in or about bulk vehicles in the process of the mixing, transferring or down-the-hole loading of water-gels at or near the blasting site:

(i) Smoking; and

~~((AND))~~

(ii) Carrying flame producing devices including matches and firearms near bulk vehicles in the process of mixing, transferring, or down-the-hole loading of water-gels, at or near the blast site.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67140 Bulk storage bins. (1) **Construction.** A bin, including supports, must be:

(a) Waterproof.

(b) Constructed of compatible materials.

(c) Adequately supported and braced to withstand the combined force of all loads, including impact from product movement within the bin and accidental vehicle contact with the support legs.

(2) **Discharge gates.** A bin discharge gate must be designed to lock and close tightly to prevent leakage of the stored product and to lock.

(3) **Loading manways.** Bin loading manways or access hatches must be hinged or attached to the bin and designed to lock.

(4) **Electric conveyors.** An electrically driven conveyor used for loading or unloading bins must:

(a) Comply with the requirements of WAC 296-800-280, Basic electrical rules.

(b) Be designed to minimize corrosion damage.

(5) **Separation distances.** The following separation distances must be followed:

(a) **Blasting agent bins.** Bins containing blasting agents must meet the distance requirements of:

(i) Table H-20, in reference to separation from inhabited buildings, passenger railroads, and public highways; or

~~((OR))~~

(ii) Table H-22, in reference to separation from other explosives and blasting agent storage facilities.

(b) **Ammonium nitrate bins.** Bins containing ammonium nitrate must meet the distance requirements of Table H-22 in reference to separation of blasting agent and explosives storage.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-67165 Fixed location mixing. (1) **Buildings.**

(a) **Locations.**

(i) **Separation distance tables.** Buildings or other facilities used for manufacturing emulsions and water-gels must meet the separation distance requirements of Table H-21 for:

(A) Inhabited buildings;

(B) Passenger railroads;

(C) Public highways;

(ii) **Determining distance.** When determining the distances separating highways, railroads, and inhabited buildings from potential explosions (Table H-20), the sum of all masses that may propagate (i.e., lie at distances less than specified in Table H-22) from either individual or combined donor masses are included in the sum. However, when ammonium nitrate must be included, only fifty percent of its weight must be used because of its reduced blast effects.

(b) **Construction.** Buildings used for the manufacture of water-gels or emulsions must:

(i) Be constructed of noncombustible material or sheet metal on wood studs.

(ii) Have mixing plant floors made of nonabsorbent materials, such as concrete.

(iii) Be well ventilated.

(c) **Heat sources.** Heating units that are designed to be independent of the combustion process within the heating unit, may be used within processing buildings or compartments if they:

(i) Have temperature and safety controls; and

~~((AND))~~

(ii) Are located away from combustible materials and the finished product.

(d) **Internal combustion engines.**

(i) **Location.** All internal combustion engines used for electric power generation must be:

(A) Located outside the mixing plant building; or

~~((OR))~~

(B) Properly ventilated and isolated by a firewall;

(ii) **Exhaust systems.** Engine exhaust systems must be located to prevent spark emissions from becoming a hazard to any materials, in or near the plant.

(e) **Fuel oil storage.**

(i) **Facilities.** Fuel oil storage facilities must be:

(A) Independent structures;

(B) Located away from the manufacturing building;

(ii) **Surrounding area.** In order to prevent oil from draining toward a manufacturing building in the event of a tank rupture, the surrounding grounds must slope away from the building.

(2) **Storage of water-gel and emulsion ingredients.**

(a) **Explosive ingredients.** Ingredients must be stored with compatible materials.

(b) **Nitrate water solutions.**

(i) Nitrate water solutions can be stored in tank cars, tank trucks, or fixed tanks without quantity or distance limitations.

(ii) Spills or leaks which may contaminate combustible materials must be cleaned up immediately.

(c) **Metal powders.** Metal powders, for example, aluminum, must be:

(i) Kept dry; and

~~((AND))~~

(ii) Stored in containers or bins that are moisture resistant or weather tight.

(d) **Solid fuels.** Solid fuels must be used in a way that minimizes dust explosion hazards.

(e) **Peroxides and chlorates.** Peroxides and chlorates cannot be used.

(3) **Mixing equipment.** Mixing equipment must comply with these requirements:

(a) **Design.** The design of processing equipment, including mixers, pumps, valves, conveying, and other related equipment, must:

(i) Be compatible with the relative sensitivity of other materials being handled.

(ii) Minimize the possibility of frictional heating, compaction, overloading, and confinement.

(iii) Prevent the introduction of foreign objects or materials.

(iv) Be designed to permit regular and periodic flushing, cleaning, dismantling, and inspection.

(b) **Handling procedures.** Equipment handling procedures must be designed to prevent the introduction of foreign objects or materials.

(c) **Housekeeping.**

(i) A cleaning and collection system for dangerous residues must be provided.

(ii) The mixing, loading, and ingredient transfer areas, where residues or spilled materials may accumulate, must be cleaned periodically.

(d) **Electrical equipment.** Electrical equipment must:

(i) Comply with the requirements of WAC 296-800-280, Basic electrical rules, including wiring, switches, controls, motors, and lights.

(ii) Have appropriate overload protection devices for all electric motors and generators.

(iii) Be electrically bonded with electrical generators, motors, proportioning devices, and all other electrical enclosures.

(iv) Have grounding conductors effectively bonded to:

(A) The service entrance ground connection; or

~~((OR))~~

(B) All equipment ground connections in a manner to provide a continuous path to ground.

(4) **Mixing facility fire prevention.** Mixing facilities must comply with these fire prevention requirements:

(a) All direct sources of heat must only come from units located outside of the mixing building.

(b) A daily visual inspection must be made of the mixing, conveying, and electrical equipment to make sure they are in good operating condition.

(c) A systematic maintenance program must be conducted on a regular schedule.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67170 Bulk delivery/mixing vehicles.

(1) **Vehicle design.** The design of bulk delivery/mixing vehicles must comply with these requirements:

(a) **Public highways.** Vehicles used for the bulk transportation of emulsion, water-gels, or ingredients classified as dangerous commodities on public highways, must meet:

(i) U.S. DOT regulations, including placard requirements; and

~~((AND))~~

(ii) WAC 296-52-680, Transportation of explosive materials.

(b) **Power supply.** When electric power is supplied by a self-contained motor generator located on the vehicle, the generator must be separate from where the water-gel is discharged.

(c) **Parking brakes and chocks.** The following are requirements for parking breaks and chocks:

(i) A positive action parking brake, which will engage the wheel brakes on at least one axle, must be:

(A) Provided on vehicles equipped with air brakes;

(B) Used during bulk delivery operations.

(ii) Wheel chocks must supplement parking brakes whenever conditions require.

(2) **Vehicle operation.** Operation of bulk delivery and mixing vehicles must comply with these requirements:

(a) **Driver training.** The vehicle driver must be:

(i) Trained in the safe operation of the vehicle and mixing, conveying, and related equipment.

(ii) Familiar with the supplies being delivered and emergency procedures.

Pneumatic loading.

(b) **Cargo and containers.**

(i) Hauling either detonators or other explosives is permitted on bulk trucks provided a special wood or nonferrous lined container is installed for explosives.

(ii) Detonators and explosives must be in U.S. DOT specified shipping containers, according to 49 C.F.R. Chapter 1.

(c) **Moving a vehicle in the blast area.** When moving a vehicle in the blasting area:

(i) The driver must exercise caution to avoid driving the vehicle onto or dragging hoses over firing lines, cap wires, or explosive materials(~~(-~~

~~AND))~~; and

(ii) A second person must help guide the vehicle driver's movements.

(d) **Transfer locations.** The location chosen to transfer water-gel or other ingredients from a support vehicle to the drill hole loading vehicle, must be removed from the blast hole site if the drill holes are loaded or are in the process of being loaded.

(e) **Prohibited activities.** The following are prohibited:

(i) In-transit mixing of materials(~~(-)~~);

(ii) Smoking(~~(-~~

~~AND))~~; and

(iii) Carrying flame-producing devices including matches and firearms near bulk vehicles in the process of mixing, transferring, or down-the-hole loading of water-gels, at or near the blast site.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67230 Initiating systems. ~~((+))~~ Electric systems.

~~((+))~~ (1) **Safety switch.** A safety switch must be:

~~((+))~~ (a) Placed at intervals in the permanent firing line when firing from a power circuit.

~~((+))~~ (b) Made:

~~((+))~~ (i) So it can only be locked in the "off position";

or

~~((OR~~
~~(B))~~ (ii) With a short-circuiting arrangement of the firing lines to the detonator circuit.

~~((B))~~ (2) **Lighting gap.** A lighting gap must be:

~~((+))~~ (a) At least five feet ahead (in the firing system) of the main firing switch, between the switch and power source.

~~((+))~~ (b) Bridged by a flexible jumper cord just before firing the blast.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-67245 High speed tunneling: Central primer house.

Note: The following requirements apply when primers are made up at a central primer house for use in high speed tunneling:

(1) **Primers.**

(a) Only enough primer must be made for each round of blasting.

(b) Primers must be placed in separate containers and bins, categorized by the degree of delay in preventing physical impact.

(2) **Separation of explosives in magazines.** Explosives transported in the same magazine must be separated by:

(a) One-quarter inch steel; and

~~(AND)~~

(b) Covered on each side by four inches of hardwood planking or equivalent protection.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68010 Public highways. Transportation of explosives on public highways are:

(*) (1) Regulated by:

(-) (a) United States Department of Transportation (U.S. DOT) (49 C.F.R., Parts 100 - 199);

(-) (b) The Washington utilities and transportation commission.

(*) (2) Administered and enforced by the Washington state patrol.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68015 Job sites and off-highway roads.

The transportation rules in this chapter apply to:

(*) (1) On job sites and off highway roads.

(*) (2) Privately financed, constructed, or maintained roads.

Note: These rules do not apply to state or interstate highway systems.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68020 Safety precautions. No one may:

(*) (1) Smoke or carry matches, or any other flame producing device, while in or near a vehicle transporting explosives.

(*) (2) Carry firearms or ammunition while in or near a vehicle transporting explosives, except guards or commissioned law enforcement officers.

(*) (3) Drive, load, or unload a vehicle transporting explosives in a careless or reckless manner.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68030 Cargo. Materials and supplies cannot be placed in the cargo space of vehicles or conveyance containing:

(*) (1) Explosives;

(*) (2) Detonating cord; or

~~(OR~~

*) (3) Detonators.

Note: It is okay to transport safety fuses and properly secured non-sparking equipment in cargo spaces.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68040 Vehicle strength and condition.

All vehicles used for transporting explosives must:

(*) (1) Be strong enough to carry the load without difficulty;

(*) (2) Be in good mechanical condition;

(*) (3) Have a tight floor in the cargo compartment(s);

(*) (4) Not have any exposed spark producing metal inside the vehicle, which could come in contact with explosives.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68045 Open top vehicles. (1) **Locations of use.** While loaded with explosives, open top vehicles must only be used on:

(*) (a) The job site; or

~~(OR~~

*) (b) Roads that are closed to public travel.

(2) **Containers.** Explosives being transported in open top vehicles or trailers must be transported in:

(*) (a) The original U.S. DOT approved shipping container or box; or

~~(OR~~

*) (b) A day box or portable magazine that complies with the requirements of this chapter.

(3) **Securing containers.** Explosive containers, boxes, day boxes, or portable magazines must be fastened to the bed of the vehicle or trailer.

(4) **Loading.** Packages of explosives cannot be loaded above the sides on open top vehicles.

(5) **Tarpaulins** (tarps).

(*) (a) If an explosives transportation vehicle or trailer does not have a fully enclosed cargo area with nonsparking interior, the cargo bed and all explosive cargo must be covered with a flame and moisture proof tarp or other effective protection against moisture and sparks.

(*) (b) Whenever tarps are used for covering explosives, both the tarp and the explosives container must be fas-

tened to the body of the truck bed with rope, wire, or other equally efficient tie downs.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68050 Vehicle placards. All vehicles transporting explosives material must have placards. They must:

- ((*) (1) Be displayed as specified by U.S. DOT;
- ((*) (2) Remain on the vehicle until all explosives have been removed.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68055 Vehicle fire protection. (1) **Fire extinguishers.**

((*) (a) **Driver training.** The driver must be trained to use the fire extinguishers on the vehicle;

((*) (b) **Equipment specifications.** Vehicles used for transporting explosive materials must be equipped with fire extinguishers according to the gross vehicle weight:

((-) (i) Less than 14,000 pounds: A minimum of two multipurpose dry-chemical extinguishers having a combined capacity of at least 4-A:20-B:C;

((-) (ii) 14,000 pounds or greater: A minimum of two multipurpose drychemical extinguishers having a combined capacity of at least 4-A:70-B:C;

((*) (c) **Laboratory approval.** Only fire extinguishers approved by a nationally recognized testing laboratory can be used on vehicles carrying explosives;

((*) (d) **Condition and location.** Fire extinguishers must be filled, ready for immediate use, and easily reached;

((*) (e) **Inspection.** A competent person must inspect fire extinguishers periodically. You must comply with the requirements of WAC 296-800-30020, Inspect and test all portable fire extinguishers.

(2) **Vehicle inspection.** Any motor vehicle used for transporting explosives must have a safety inspection. The inspection must verify that:

((*) (a) Fire extinguishers are filled and in working order;

((*) (b) All electrical wiring is protected and securely fastened to prevent short circuiting;

((*) (c) Chassis, motor, pan, and underside of body are reasonably clean and free of excess oil and grease;

((*) (d) Fuel tank and feedline are secure and have no leaks;

((*) (e) Tires are checked for proper inflation and defects;

((*) (f) Brakes, lights, horn, windshield wipers, and steering apparatus are functioning properly;

((*) (g) The vehicle is in proper condition in every other respect and acceptable for handling explosives.

(3) **Vehicle repair/servicing.** Motor vehicles or conveyances carrying explosives, blasting agents, or blasting supplies cannot be repaired or serviced inside a garage or shop when carrying explosive material.

AMENDATORY SECTION (Amending WSR 03-06-073, filed 3/4/03, effective 8/1/03)

WAC 296-52-68060 Operation of vehicles transporting explosives. (1) **Authorized explosives transportation.**

Explosives may only be transported by a:

((*) (a) Licensed manufacturer;

((*) (b) Blaster;

((*) (c) Purchaser, seller, or their designated representative; or

~~((OR~~

*) (d) Contract carrier for hire who complies with all requirements for transportation of hazardous materials.

(2) **Driver qualifications.**

(a) Vehicles transporting explosives must be driven by a responsible licensed driver who is:

((*) (i) At least twenty-one years old;

((*) (ii) Physically fit;

((*) (iii) Careful;

((*) (iv) Capable;

((*) (v) Reliable;

((*) (vi) Able to read and write the English language;

((*) (vii) Not addicted to or under the influence of intoxicants, narcotics, or other dangerous drugs. (This does not apply to people taking prescription drugs and/or narcotics as directed by a physician, as long as use of the prescription drug does not endanger the worker or others.)

(b) The driver must be:

((*) (i) Familiar with all:

((-) (A) Traffic regulations;

((-) (B) Department of Transportation (U.S. DOT) and other state laws in the transportation of explosives and hazardous material laws.

((*) (ii) Aware of:

((-) (A) What they are carrying;

((-) (B) Safety precautions for the explosives being transported.

(3) **Parking - Division 1.1 or 1.2 explosives.** A vehicle that contains Division 1.1 or 1.2 explosives cannot be parked:

((*) (a) On or within five feet of the traveled portion of a public street or highway;

((*) (b) On private property, including fueling or eating facilities, without the knowledge and consent of the person. The person in charge must be aware of the hazardous materials in the vehicle; or

~~((OR~~

*) (c) Within three hundred feet of a bridge, tunnel, dwelling, building, or place where people work, congregate, or assemble.

Exemption: These restrictions do not apply when:

- Routine operations require the vehicle be parked for a brief period of time.

- It is impractical to park the vehicle any other place.

(4) **Vehicle attendance.** A vehicle transporting any quantity of Division 1.1 or 1.2 explosives must be attended at all times by a driver or other representative of the vehicle carrier, exceptions are:

((*) (a) A vehicle containing explosive materials may be left unattended for a period not to exceed forty-eight hours provided((

-) the vehicle is parked in a designated parking lot, which complies with NFPA Std. 498 and the appropriate distance table for the type and quantity of explosives.

((*) (b) The parking lot must:

((-) (i) Be correctly bermed, walled, or fenced, and gated to prevent unauthorized entry;

((-) (ii) Be inspected and approved by the department;

((-) (iii) Provide a full-time, continuous security patrol when explosives are present;

((*) (c) An explosives delivery truck does not need to be attended when it only contains Division 1.5 and no high explosives, provided the:

((-) (i) Vehicle is locked so it cannot be moved;

((-) (ii) Cargo compartments are locked to prevent theft;

((-) (iii) Vehicle is parked according to all applicable storage distance requirements;

((-) (iv) Vehicle is located in a secured area that restricts entry of unauthorized personnel.

(5) **Attendant.**

(a) An authorized attendant must be physically present and able to see the explosives at all times.

(b) In an emergency, the attendant must be able to quickly get to the explosives without interference.

(c) The attendant must:

((*) (i) Be awake;

((*) (ii) Be alert;

((*) (iii) Not be engaged in activities, which could divert their attention;

((*) (iv) Be aware of the division of the explosive material and its dangers;

((*) (v) Be instructed in the methods and procedures used to protect the public;

((*) (vi) Be familiar with the particular vehicle being driven;

((*) (vii) Be trained in the use of the vehicle;

((*) (viii) Have authorization and be able to move the vehicle if required.

(6) **Loading precautions.** A vehicle must comply with U.S. DOT loading regulations in order to transport explosives in the same vehicle body with the following items:

((*) (a) Spark producing metal;

((*) (b) Spark producing tools;

((*) (c) Oils;

((*) (d) Matches;

((*) (e) Firearms;

((*) (f) Electric storage batteries;

((*) (g) Flammable substances;

((*) (h) Acids;

((*) (i) Oxidizing materials; or

~~((*)~~

*) (j) Corrosive compound.

(7) **Congested areas.** Vehicles transporting explosives must avoid congested areas and heavy traffic.

(8) **Disabled vehicles.**

((*) (a) A qualified person must be present before explosives can be transferred from a disabled vehicle to another vehicle;

((*) (b) If a vehicle becomes disabled in a congested area, you must promptly notify local fire and police authorities. In a remote area they may be notified if necessary.

(9) **Explosives delivery and issue.** Delivery and issue of explosives must be made:

((*) (a) Only by and to authorized people;

((*) (b) Into authorized magazines or authorized temporary storage or handling areas.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68065 Transporting detonators and explosives in the same vehicle. (1) Fuse type detonators, detonators with a safety fuse, or detonators with a metal clad mild detonating fuse, cannot be transported in the same vehicle or trailer with other explosives, unless they comply with U.S. DOT hazardous material regulations for:

((*) (a) Packaging;

((*) (b) Separation;

((*) (c) Transportation;

(2) Detonators rated as nonmass detonating by U.S. DOT may be transported in the same vehicle or trailer with other explosives when the:

((*) (a) Detonators are carried in U.S. DOT approved shipping containers; or

~~((*)~~

*) (b) Truck or trailer complies with the requirements of IME Safety Library Publication Number 22, May 1993.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68075 Powder cars, vehicles, and conveyances. In underground blasting operations, explosives and blasting agents must be hoisted, lowered, or transported in a powder car.

(1) **State approval.** A state-approved powder car or conveyance must be used underground.

(2) **Two-unit compartments.** Compartments for transporting detonators and explosives together on the same conveyance must be physically separated by a:

((*) (a) Distance of twenty-four inches; or

~~((*)~~

*) (b) Solid partition a minimum of six inches thick.

(3) **Auxiliary lights prohibited.** Auxiliary lights that are powered by an electrical system on a truck bed are prohibited.

(4) **Daily inspection.** The powder car or conveyance must be inspected daily for:

((*) (a) Properly working lights;

((*) (b) Properly working brakes;

((*) (c) External damage to electrical circuitry.

(5) **Weekly inspection.** Weekly inspections must:

((*) (a) Be conducted on the electrical system, to assess electrical hazards;

((*) (b) Include a written inspection certification record that:

((-) (i) Contains the date of inspection, the serial number, or other positive identification of the unit being inspected, and the signature of the person performing the inspection;

((-) (ii) Is kept on file for the duration of the job.

(6) **Explosives warning sign.** Powder cars or conveyance built for transporting explosives or blasting agents must have signs posted on each side of the car that:

- ((*) (a) State "EXPLOSIVES";
- ((*) (b) Use letters a minimum of four inches high;
- ((*) (c) Have a background color that sharply contrasts with the letters.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-68085 Underground transportation.

(1) **Explosives and blasting agents.** These requirements must be followed when transporting explosives and blasting agents underground:

- ((*) (a) **Companion items.**
 - (-) (i) Explosives or blasting agents cannot be transported in the same shaft conveyance with other materials, supplies, or equipment;
 - (-) (ii) Detonators and other explosives cannot be transported in the same shaft conveyance;
 - ((*) (b) **Manual transportation.** Explosives or blasting agents that are not in their original containers must be placed in a suitable container when transported manually;
 - ((*) (c) **Car or conveyance.** The car or conveyance containing explosives or blasting agents must be pulled and not pushed;
 - ((*) (d) **Locomotives.** Explosives or blasting agents must:
 - (-) (i) Not be transported on any locomotive;
 - (-) (ii) Be separated by a minimum of two car lengths from the locomotive;
 - ((*) (e) **Riding on a conveyance.** When transporting explosives or blasting agents, no one can ride on:
 - (-) (i) A shaft conveyance; or
 - ~~((*)~~ (ii) Any other conveyance, except the operator, helper, or powder person;
 - ((*) (f) **Crew haul trips.** Explosives or blasting agents cannot be transported on a crew haul trip;
 - ((*) (g) **Disposition at arrival.** All explosives or blasting agents that are transported underground must immediately be taken to the place of use or storage.
 - (2) **Quantity limit.** The quantity of explosives or blasting agents taken to an underground loading area cannot exceed the amount estimated to be necessary for the blast.
 - (3) **Unloading primers at the blast site.** Primers must be:
 - ((*) (a) Unloaded after drilling has been completed and the holes in the round are ready for loading;
 - ((*) (b) Unloaded from the powder car at the face or heading;
 - ((*) (c) Removed from the powder car for only the exact number being used for the round;
 - ((*) (d) The powder car must be removed from the tunnel after the charge has been loaded.
 - (4) **Electric detonators.** Wires on electric detonators must be kept shunted until wired to the bus wires.

AMENDATORY SECTION (Amending WSR 03-06-073, filed 3/4/03, effective 8/1/03)

WAC 296-52-69010 Explosives. All Division 1.1, 1.2, 1.3, and 1.4 explosives, special industrial explosives, and any newly developed unclassified explosives, must be kept in magazines that meet the requirements of RCW 70.74.120 and this chapter, unless the explosives are:

- ((*) (1) In the manufacturing process;
- ((*) (2) Being physically handled;
- ((*) (3) Being used at the blast site; or
- ~~((*)~~ (4) Being transported to a place of storage or use.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69025 Quantity and distance tables. All explosive manufacturing buildings and magazines that store explosives or blasting agents (except small arms ammunition and smokeless powder), must meet the requirements as specified in:

- ((*) (1) Table H-20, Distances for Storage of Explosives;
- ((*) (2) Table H-21, Distance Table for Separation between Magazines;
- ((*) (3) Table H-22, Separation Distance of Ammonium Nitrate and Blasting Agent from Explosives or Blasting Agents.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69030 Storage within magazines. (1) **Storage materials.** Magazines cannot be used for storage of metal tools or any commodity other than:

- ((*) (a) Explosives;
- ((*) (b) Blasting agents;
- ((*) (c) Blasting supplies;
- (2) **Black powder.**
 - ((*) (a) Black powder must be stored separately from other explosives in a magazine;
 - ((*) (b) Kegs must be stored on end, bungs down, on sides, seams down;
 - (3) **Age/or date mark.** Explosives that are not already age/or date marked by the manufacturer, must be marked with the manufacturing date before being stored in the magazine.

Note: Unidentified explosives confiscated by law enforcement may be marked with the confiscation date, if the manufacturer's date is unknown.

- (4) **Grades and brands.**
 - ((*) (a) Identical grades and brands of explosives must be stored together, with the brands and grade marks showing;
 - ((*) (b) Explosive materials must be stored so they can be easily checked and counted;
 - (5) **Package placement.** Explosive packages must be:
 - ((*) (a) Placed right side up;
 - ((*) (b) Stacked so they are stable;

(6) **Ventilation.** Explosive material cannot be:

- ((*) (a) Stored where they could interfere with ventilation; or
- ~~((OR~~
- *) (b) Placed less than two inches from the interior walls.

Note: Nonsparking lattice or other nonsparking material may be used to prevent contact of stored explosive material with interior walls.

(7) **Housekeeping.**

- ((*) (a) Magazine floors must be:
- ((-) (i) Regularly swept and the sweepings properly disposed of;
- ((-) (ii) Kept clean and dry;
- ((-) (iii) Free of grit, paper, and used packages or rubbish.
- ((*) (b) Brooms and other cleaning tools cannot have any spark producing metal parts.
- ((*) (c) Floors stained with nitroglycerin must be cleaned according to the manufacturer's instructions.

(8) **Unpacking or repacking explosives.**

- ((*) (a) Containers of explosives (except for fiberboard or other nonmetal containers) cannot be unpacked or repacked:
 - ((-) (i) In a magazine;
 - ((-) (ii) Within fifty feet of a magazine; or
 - ~~((OR~~
 -) (iii) Near other explosives.
- ((*) (b) Opened packages of explosives must be securely closed before returning them to a magazine.
- ((*) (c) Tools used for opening packages of explosives must be constructed of nonsparking materials.
- ((*) (d) A wood wedge and a fiber, rubber, or wood mallet must be used for opening or closing wooden crates of explosives.

AMENDATORY SECTION (Amending WSR 11-01-124, filed 12/20/10, effective 2/1/11)

WAC 296-52-69040 Notification of fire safety authority. Any person who stores explosive material must notify the local fire safety authority, who has jurisdiction over the area where the explosive material is stored.

- (1) The local fire safety authority must be notified:
 - ((*) (a) Orally, on the first day explosive materials are stored;
 - ((*) (b) In writing, within forty-eight hours, from the time the explosive material was stored;
 - ((*) (c) In writing when an explosive storage license is renewed.
- (2) The notification must include the following for each site where explosive material is stored:
 - ((*) (a) Type of explosives;
 - ((*) (b) Magazine capacity;
 - ((*) (c) Location.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69045 Magazine repairs. Before beginning repair activities that could cause sparks or fire:

- ((*) (1) All explosives must be removed from the magazine under repair and placed in another magazine or a safe distance away;
- ((*) (2) Explosives must be properly guarded until they are returned to the magazine;
- ((*) (3) The floor must be cleaned before beginning repairs inside a magazine.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69050 Inventory. (1) A qualified person must be:

- ((*) (a) Responsible for the magazine at all times;
- ((*) (b) At least twenty-one years old;
- ((*) (c) Held responsible for the enforcement of all safety requirements.
- (2) Explosives must:
 - ((*) (a) Be accounted for at all times;
 - ((*) (b) Be kept in a locked magazine when not in use;
 - ((*) (c) Not be easily accessed by unauthorized persons.
- (3) Inventory and use records must be kept up to date for all explosives.
- (4) Any person responsible for explosives who discovers a theft or loss of explosives must report the incident to local law enforcement within twenty-four hours.
- (5) Law enforcement agencies must report a theft or loss of explosives to the department immediately.
- (6) Other people who know of attempted or actual unauthorized magazine entry must report this information to local law enforcement.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69055 Inspection. (1) **Weekly inspection.**

- (a) The person or company responsible for the contents of the magazine must inspect the magazine at least every seven days to determine whether there has been an unauthorized:
 - ((*) (i) Attempted entry into the magazine; or
 - ~~((OR~~
 - *) (ii) Removal of explosives from the magazine.
- (b) The person doing the inspection must be familiar with the magazine and its contents.

Note: This inspection does not need to be an inventory.

(2) **Inspection documentation.**

- (a) The person doing the inspection must sign one of the following documents after completing the inspection:
 - ((*) (i) A weekly inspection log;
 - ((*) (ii) An inventory sheet; or
 - ~~((OR~~
 - *) (iii) Other record.

(b) Weekly inspection records must be kept for at least one year.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69060 Precautions for areas surrounding magazine. (1) **Firearms.** Only qualified guards and qualified law enforcement officers are allowed to carry firearms inside or within fifty feet of a magazine.

(2) **Area maintenance.** The area surrounding magazines must:

((*) (a) Be kept clear of rubbish, brush, dry grass, or trees, except live trees more than ten feet tall, for a minimum of twenty-five feet in all directions;

((*) (b) Be free of volatile materials for a minimum of fifty feet from outdoor magazine;

((*) (c) Have the ground around storage facilities slope away for drainage; living foliage does not need to be removed.

(3) **Fire sources.** Smoking, matches, open flames, and spark producing devices are not permitted:

((*) (a) In any magazine;

((*) (b) Within fifty feet of an outdoor magazine; or

~~((*)~~

*) (c) In any room containing an indoor magazine.

(4) **Warning sign.**

(a) **Access routes.** All normal access routes to explosive material storage facilities, except Class 3 (1.4) magazines, must be posted with warning signs that read:

DANGER
NEVER FIGHT EXPLOSIVE FIRES
EXPLOSIVES ARE STORED ON THIS SITE
CALL _____

(b) **Sign specifications and placement.** Signs must:

(i) Be contrasting in color;

(ii) Have the pin stroke of the letters a minimum of three inches (75 mm) high and one-half inch (12.5 mm) wide;

(iii) Be placed so a bullet passing through the sign will not strike a magazine;

(iv) Not be attached to magazines.

(c) **Transportation placards.** Placards required by the U.S. Department of Transportation (DOT) (49 C.F.R.) for transporting blasting agents must be displayed on all Class 5 magazines where blasting agents are stored.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69065 Deteriorated explosives. ((*) (1) Explosives must be immediately destroyed, according to the manufacturer's recommendations, whenever they are suspected of deteriorating to the point they are:

((-) (a) Unstable;

((-) (b) Dangerous;

((-) (c) Leaking nitroglycerine.

((*) (2) Only a licensed blaster may destroy explosives.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69070 Explosives recovered from misfires. ((*) (1) **Storage.** Explosives recovered from misfires must be placed in a separate licensed magazine until they can be disposed of according to the manufacturer's recommendations.

((*) (2) **Detonator use.** Detonators suspected of being defective cannot be reused.

((*) (3) **Disposal.** The blaster in charge must dispose of explosives and detonators according to the manufacturer's recommendations.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69080 Blast site storage. (1) **Location.** Temporary storage for explosives at blast sites must be located away from:

((*) (a) Inhabited buildings;

((*) (b) Railways;

((*) (c) Highways;

((*) (d) Other magazines.

(2) **Separation distance.** A distance must be maintained between magazines and the blast site. This distance must be a minimum of:

((*) (a) One hundred fifty feet when the quantity of explosives is greater than twenty-five pounds;

((*) (b) Fifty feet when the quantity of explosives is twenty-five pounds or less.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69085 Multiple magazines. (1) **Separation distance.** When two or more storage magazines are located on the same property, each magazine must comply with the minimum quantity of explosives and separation distance requirements for:

((*) (a) Magazines (Table H-21);

((*) (b) Inhabited buildings, railways, and highways (Table H-20).

(2) **Distances that do not meet requirements.** If the separation distance between two or more magazines is less than the distance required (Table H-21), the magazines must:

((*) (a) Be considered one magazine; and

~~((*)~~

*) (b) Comply with the minimum distance requirements for inhabited buildings, railways, and highways (Table H-20).

(3) **Distance of grouped magazines to other magazines.** Each magazine in a group must comply with minimum magazine distance requirements (Table H-21) in relation to other magazines not considered part of the group.

(4) **Quantity of explosives.**

(a) **Magazine group.** The total quantity of explosives stored in a magazine group (two or more) must:

((*) (i) Be considered one magazine;

((*) (ii) Not exceed the requirements of Table H-21 for one magazine.

(b) **Detonator magazine.** The quantity of explosives contained in a detonator magazine takes precedence over the minimum magazine distance requirements (Table H-21) when determining the separation distance required between a detonator magazine and magazines that contain other types of explosives.

(c) **Detonator strength.** Strengths of blasting and electric detonators:

((*) (i) Up to #8 detonators must be rated as one and one-half pounds of explosives per one thousand detonators;

((*) (ii) Detonators greater than #8 must be computed on the combined weight of explosives.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69090 Blasting agents and supplies. (1) Storage.

Note: You may store blasting agents with nonexplosive blasting supplies.

(a) When stored with explosives, blasting agents or ammonium nitrate must be stored as required in magazine construction.

(b) When computing the total quantity of explosives, the mass of blasting agents and one-half the mass of ammonium nitrate must be included when determining the distance requirements.

(c) When stored separately from explosives, blasting agents and ammonium nitrate must be stored as required in this chapter; or

~~((*)~~)

Warehouses which are:

((*) (i) One story without basements;

((*) (ii) Noncombustible or fire resistant;

((*) (iii) Constructed so there are no open floor drains and piping where molten materials could flow and be trapped in case of fire;

((*) (iv) Weather resistant;

((*) (v) Well ventilated;

((*) (vi) Equipped with a strong door which is securely locked except when open for business.

(d) Semi-trailer or full trailer vans used for highway or on-site transportation of blasting agents. They must:

((*) (i) Comply with location requirements for inhabited buildings, passenger railways, and public highways in Table H-20;

((*) (ii) Be in accordance with the distance requirements in Table H-22;

((*) (iii) Have substantial means for locking and the trailer doors must be kept locked except during the time of placement or removal of blasting agents.

(e) Storage warehouses for blasting agents:

((*) (i) Must comply with the location requirements for inhabited buildings, passenger railways, and public highways in Table H-20;

((*) (ii) Must be in accordance with the distance requirements in Table H-22.

(f) Combustible materials, flammable liquids, corrosive acids, chlorates, or nitrates cannot be stored in warehouses

used for blasting agents unless they are separated by a fire resistant wall with a minimum of one-hour fire resistance.

(g) A competent person, at least twenty-one years old, must supervise every warehouse used for the storage of blasting agents.

(2) **Combustible materials.** These activities and items are prohibited within fifty feet (15.2 m) of any warehouse used for storing blasting agents:

((*) (a) Smoking;

((*) (b) Matches;

((*) (c) Open flames;

((*) (d) Spark producing devices;

~~((*) Fire-arms)~~ (e) Firearms.

(3) **Housekeeping.** The interiors of warehouses used for storing blasting agents must be:

((*) (a) Kept clean, and free from debris and empty containers;

((*) (b) All spilled materials must be promptly cleaned.

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

WAC 296-52-69095 Ammonium nitrate. (1) Storage.

(a) Ammonium nitrate storage requirements do not apply to:

((*) (i) The transportation of ammonium nitrates while under the jurisdiction of and in compliance with U.S. DOT regulations (see 49 C.F.R., Part 173);

((*) (ii) The storage of ammonium nitrates while under the jurisdiction of and in compliance with U.S. Coast Guard (see 49 C.F.R., Parts 146-149);

((*) (iii) The storage of ammonium nitrate and ammonium nitrate mixtures, which are more sensitive than allowed by the bulletin:

"Definition and test procedures for ammonium nitrate fertilizers" from the Fertilizer Institute, 501 2nd Street N.E., Washington, D.C. 20006.

This definition limits the contents of organic materials, metals, sulfur, etc., in products that may be classified ammonium nitrate fertilizer.

((*) (iv) The production of ammonium nitrate or the storage of ammonium nitrate on the premises of the producing plant, if no hazards are created to the employees or public;

((*) (v) The standards for ammonium nitrate (nitrous oxide grade) that are found in the:

"Specifications, properties and recommendations for packaging, transportation, storage and use of ammonium nitrate," from the Compressed Gas Association, Inc., 1235 Jefferson Davis Highway, Suite 1004, Arlington, VA 22202-4100.

(b) Ammonium nitrate storage requirements apply to:

((*) (i) Anyone, in addition to the owner or lessee of any building, premises, or structure having or storing ammonium nitrate in quantities of one thousand pounds (425 kg) or more;

((*) (ii) Ammonium nitrate in the form of crystals, flakes, grains, or prills including fertilizer grade, dynamite grade, nitrous oxide grade, technical grade, and other mixtures containing sixty percent or more ammonium nitrate by weight.

Note: The approval of large quantity storage is based on the fire and explosion hazards, including exposure to toxic vapors from burning or decomposing ammonium nitrate.

(c) Storage buildings housing ammonium nitrate must:

((*) (i) Have adequate ventilation or be self-ventilating in the event of a fire;

((*) (ii) Have fire resistant walls when the exposed side of a storage building is within fifty feet (15.2 m) of a combustible building, forest, piles of combustible materials, and similar exposure hazards. Other suitable means of exposure protection such as a freestanding wall may be used instead of a fire resistant wall;

((*) (iii) Have roof coverings that are Division 1.4 or better as defined in Roof Coverings, NFPA 203M-1970;

((*) (iv) Have flooring of noncombustible material or be protected against saturation by ammonium nitrate. In case of fire, the floor must not have open drains, traps, tunnels, pits, or pockets into which molten ammonium nitrate could flow and be confined;

((*) (v) Be dry and free from water seepage through the roof, walls, and floors;

((*) (vi) Not have basements, unless the basements are open on at least one side;

((*) (vii) Not be over one story in height.

Note: The continued use of an existing storage building or structure may be approved in cases where continued use will not constitute a hazard to life or adjoining property.

Bags, drums, and other containers of ammonium nitrate must:

(d) Comply with specifications and standards required for use in interstate commerce (see 49 C.F.R., Chapter 1). Containers used on the premises in the actual manufacturing or processing do not need to comply((-);

((*) (i) Not be used for storage when the temperature of the ammonium nitrate exceeds 130°F (54.4°C);

((*) (ii) Not be stored within thirty inches (76 cm) of the storage building walls and partitions;

((*) (iii) Not be stacked higher than twenty feet (6.1 m) in height, twenty feet (6.1 m) in width, and fifty feet (15.2 m) in length. When buildings are constructed of noncombustible materials or protected by automatic sprinklers, there are no stacking height restrictions;

((*) (iv) Never be stacked closer than thirty-six inches (.09 m) below the roof or overhead supporting and spreader beams;

((*) (v) Be separated by aisles a minimum of three feet wide. There must be one main aisle in the storage area a minimum of four feet (1.2 m) wide.

(e) Bulk ammonium nitrate must be stored:

((*) (i) In warehouses with adequate ventilation or be capable of adequate ventilation in case of fire;

((*) (ii) In structures that are not more than forty feet (12.2 m) high, unless:

((-) (A) They are constructed of noncombustible material; or

((~~OR~~

-) (B) Have adequate facilities for fighting a roof fire;

((*) (iii) In clean bins that are free of materials that could cause contamination;

((*) (iv) In bins or piles that are clearly identified by signs reading "AMMONIUM NITRATE" in letters a minimum of two inches (5 cm) high;

((*) (v) In bins or piles sized and arranged so all material is moved periodically to minimize the possibility of caking;

((*) (vi) Adequately separated from easily combustible fuels. Bins cannot be made of galvanized iron, copper, lead, and zinc because of the:

((-) (A) Corrosive and reactive properties of ammonium nitrate; and

((~~AND~~

-) (B) To avoid contamination.

((*) (vii) In tightly constructed wooden and aluminum bins that are protected against saturation from ammonium nitrate;

((*) (viii) In tightly constructed partitions that divide the ammonium nitrate from other products to avoid contamination;

((*) (ix) Where the temperature of the product does not exceed 130°F (54.4°C);

((*) (x) No higher than thirty-six inches (0.9 m) below the roof or overhead supporting and spreader beams if stacked in piles. Stack limits (height and depth), should be determined by the pressure setting tendency of the product.

(f) Bulk ammonium nitrate when caked, cannot be broken up or loosed by the use of dynamite, other explosives or blasting agents.

(g) Bulk ammonium nitrate cannot be stored with:

((*) (i) LP Gas on the premises except when such storage complies with WAC 296-24-475, Storage and handling of liquefied petroleum gases;

((*) (ii) Sulfur and finely divided metals in the same building except when such storage complies with this chapter and NFPA standard 495, Explosives Materials Code;

((*) (iii) Explosives and blasting agents in the same building except on the premises of manufacturers, distributors, and user of explosives or blasting agents;

((*) (iv) When explosives or blasting agents are stored in separate buildings, other than on the approval of manufacturers, distributors, and user, they must be separated from the ammonium nitrate by the distances and/or barricades specified in Table H-22 or a minimum of fifty feet (15.2 m);

((*) (v) With flammable liquids, such as gasoline, kerosene, solvents, and light fuel oils on the premises except when such storage conforms to WAC 296-24-330, Flammable liquids, and when walls, sills or curbs are provided in accordance with WAC 296-52-69095, Ammonium nitrate.

(2) Contaminants must be stored in a separate building from ammonium nitrate

((~~OR~~) or be separated by an approved firewall of not less than one-hour fire resistance rating which should extend to the underside of the roof. Alternatively, the contaminants may be separated by a minimum of thirty feet (9.1 m), instead of using walls. These contaminants are:

((*) (a) Organic chemicals;

((*) (b) Acids;

((*) (c) Other corrosive materials;

((*) (d) Materials that may require blasting during processing or handling;

((*) (e) Compressed flammable gases;

- (*) (f) Flammable and combustible materials;
- (*) (g) Other substances including:

Animal fats	Baled cotton	Baled rags	Baled scrap paper
Bleaching powder	Burlap or cotton bags	Caustic soda	Coal
Coke	Charcoal	Cork	Camphor
Excelsior	Fibers of any kind	Fish oil	Fish meal
Foam rubber	Hay	Lubricating oil	Linseed oil
Other oxidizable or drying oils	Naphthalene	Oakum	Oiled clothing
Oiled paper	Oiled textiles	Paint	Straw
Sawdust	Wood shavings	Vegetable oil	

(3) Housekeeping requirements must have:

(*) (a) Electrical installations, which meet the requirements of chapter 296-24 WAC, Part L, Electrical, and WAC 296-800-280, Basic electrical rules, for ordinary locations and be designed to minimize damage from corrosion;

(*) (b) Adequate lightning protections in areas where lightning storms are prevalent (see NFPA 78-1992, Lightning Protection Code);

(*) (c) Procedures to prevent unauthorized personnel from entering the ammonium nitrate storage area;

(4) Fire protection must provide:

(*) (a) Water supplies and fire hydrants;

(*) (b) Suitable fire control devices, such as a small hose or portable fire extinguishers, throughout the warehouse and in the loading/unloading areas. These devices must comply with the requirements of WAC 296-800-300, Portable fire extinguishers, and WAC 296-24-602, Standpipe and hose systems;

(*) (c) Approved sprinkler systems installed according to WAC 296-24-607, Automatic sprinkler systems;

(*) (d) Two thousand five hundred tons (two thousand two hundred seventy metric) or less of bagged ammonium nitrate may be stored in a structure that does not have an automatic sprinkler system.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-69110 Table H-21—Quantity and distance table for separation between magazines.

Note: This table applies to the permanent storage of commercial explosives only. It does not apply to:

- (*) 1. Explosives handling;
- (*) 2. Explosives transportation;
- (*) 3. Temporary storage of explosives;
- (*) 4. Bombs, projectiles, or other heavily encased explosives.

Magazines containing detonators and electric detonators must be separated from:

- (1) Other magazines with similar contents(~~(-OR)~~); or
- (2) Magazines containing explosives.

Note: Definitions of barricade including artificial and natural barricade can be found in WAC 296-52-60130, Definitions.

Table H-21

QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CONTAINING EXPLOSIVES		Separation Distance in Feet Between Magazines	
Pounds Over	Pounds Not Over	Not Barricaded	Barricaded
2	5	12	6
5	10	16	8
10	20	20	10
20	30	22	11
30	40	24	12
40	50	28	14
50	75	30	15
75	100	32	16
100	125	36	18
125	150	38	19
150	200	42	21
200	250	46	23
250	300	48	24
300	400	54	27
400	500	58	29
500	600	62	31
600	700	64	32
700	800	66	33
800	900	70	35
900	1,000	72	36
1,000	1,200	78	39
1,200	1,400	82	41
1,400	1,600	86	43
1,600	1,800	88	44
1,800	2,000	90	45
2,000	2,500	98	49
2,500	3,000	104	52
3,000	4,000	116	58
4,000	5,000	122	61
5,000	6,000	130	65
6,000	7,000	136	68
7,000	8,000	144	72
8,000	9,000	150	75
9,000	10,000	156	78
10,000	12,000	164	82
12,000	14,000	174	87
14,000	16,000	180	90

QUANTITY AND DISTANCE TABLE FOR SEPARATION BETWEEN MAGAZINES CONTAINING EXPLOSIVES		Separation Distance in Feet Between Magazines	
Pounds Over	Pounds Not Over	Not Barricaded	Barricaded
16,000	18,000	188	94
18,000	20,000	196	98
20,000	25,000	210	105
25,000	30,000	224	112
30,000	35,000	238	119
35,000	40,000	248	124
40,000	45,000	258	129
45,000	50,000	270	135
50,000	55,000	280	140
55,000	60,000	290	145
60,000	65,000	300	150
65,000	70,000	310	155
70,000	75,000	320	160
75,000	80,000	330	165
80,000	85,000	340	170
85,000	90,000	350	175
90,000	95,000	360	180
95,000	100,000	370	185
100,000	110,000	380	195
110,000	120,000	410	205
120,000	130,000	430	215
130,000	140,000	450	225
140,000	150,000	470	235
150,000	160,000	490	245
160,000	170,000	510	255
170,000	180,000	530	265
180,000	190,000	550	275
190,000	200,000	570	285
200,000	210,000	590	295
210,000	230,000	630	315
230,000	250,000	670	335
250,000	275,000	720	360
275,000	300,000	770	385

Note: With site-specific department approval, a stand of mature timber may qualify as a natural barricade. The timber must be dense enough so the area requiring protection cannot be seen from the magazine when the trees are bare of leaves.

AMENDATORY SECTION (Amending WSR 03-06-073, filed 3/4/03, effective 8/1/03)

WAC 296-52-69125 Table H-24—Low explosives. (1) Use Table H-24 for(±) magazines that are restricted to:
 ((*) (a) Division 1.2 or 1.3;
 ((*) (b) Division 1.4, low explosives;
 ((*) (c) Low explosives classified by BATF.
 (2) Detonators cannot be stored with low explosives.

Table H-24

TABLE OF DISTANCES FOR STORAGE OF LOW EXPLOSIVES

Pounds		From inhabited building distance (feet)	From public railroad and highway distance (feet)	From above ground magazine (feet)
Over	Not Over			
0	1,000	75	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	375	375	250
200,000	300,000	450	450	300

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-70005 Type 1 magazines: Permanent storage facilities. A Type 1 storage facility must be:
 ((*) (1) A permanent structure such as:
 ((-) (a) A building;
 ((-) (b) An igloo;
 ((-) (c) An army-type structure;
 ((-) (d) A tunnel; or
 ((OR
 -)) (e) A dugout.
 ((*) (2) Bullet resistant, fire resistant, weather resistant, theft resistant, and well ventilated.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-70010 Building construction for Type 1 magazines. (1) All building-type storage facilities must:
 ((*) (a) Be constructed of masonry, wood, metal, or a combination of these materials;
 ((*) (b) Have no openings except for entrances and ventilation;
 ((*) (c) Have the ground around the facility slope away for drainage.

~~((1))~~ (2) Wall construction.

(a) **Masonry wall construction.** Masonry wall construction must:

(*) (i) Consist of brick, concrete, tile, cement block, or cinder block;

(*) (ii) Be at least eight inches thick.

(b) **Hollow masonry construction.** Hollow masonry construction must:

(*) (i) Have all hollow spaces filled with well tamped coarse dry sand; or

~~((OR~~

*) (ii) Have weak concrete (a mixture of one part cement to eight parts sand with enough water to dampen the mixture) while tamping in place; and

~~((AND~~

*) (iii) Have interior walls covered with a nonsparking material.

(c) **Fabricated metal wall construction.**

(*) (i) Metal wall construction must be securely fastened to a metal framework and consist of one of the following types of metal:

(-) (A) Sectional sheets of steel (at least number 14 gauge); or

~~((OR~~

-) (B) Aluminum (at least number 14 gauge);

(*) (ii) Metal wall construction must:

(-) (A) Be lined with brick, solid cement blocks, and hardwood at least four inches thick or material of equivalent strength;

(-) (B) Have a minimum of six-inch sand fill between interior and exterior walls;

(-) (C) Have interior walls constructed of or covered with a nonsparking material.

(d) **Wood frame wall construction.**

(*) (i) Exterior wood walls must be covered with iron or aluminum at least number 26 gauge;

(*) (ii) Inner walls, made of nonsparking materials must be constructed with a space:

(-) (A) A minimum of six inches between the outer and inner walls; and

~~((AND~~

-) (B) Filled with coarse dry sand or weak concrete.

~~((2))~~ (3) Floors. Floors must be:

(a) Constructed of a nonsparking material.

(b) Strong enough to hold the weight of the maximum quantity to be stored.

~~((3))~~ (4) Foundation.

(*) (a) Foundations must be constructed of brick, concrete, cement block, stone, or wood posts.

(*) (b) If piers or posts are used instead of a continuous foundation, the space under the building must be enclosed with metal.

~~((4))~~ (5) Roof.

(a) Roofs must be covered with no less than number 26 gauge iron or aluminum fastened to a 7/8-inch sheathing, except for buildings with fabricated metal roofs.

(b) If it is possible for a bullet to be fired directly through the roof at such an angle that it would strike a point below the top of the inner walls, storage facilities must be protected by one of the following two methods:

(*) (i) A sand tray must be:

(-) (A) Located at the top of the inner wall covering the entire ceiling area, except the area necessary for ventilation(-);

(-) (B) Lined with a layer of building paper(-);

(-) (C) Filled with at least four inches of coarse dry sand.

(*) (ii) A fabricated metal roof must be constructed of 3/16-inch plate steel lined with four inches of hardwood or material of equivalent strength. For each additional 1/16-inch of plate steel, the hardwood or material of equivalent strength lining may be decreased one inch.

~~((5))~~ (6) Doors and hinges.

(a) All doors must be constructed of 1/4-inch plate steel and lined with three inches of hardwood or material of equivalent strength.

(b) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

(*) (i) Welding;

(*) (ii) Riveting; or

~~((OR~~

*) (iii) Bolting nuts on the inside of the door.

~~((6))~~ (7) Locks.

(a) Each door must be equipped with:

(*) (i) Two mortise locks;

(*) (ii) Two padlocks fastened in separate hasps and staples;

(*) (iii) A combination of a mortise lock and a padlock;

(*) (iv) A mortise lock that requires two keys to open;

or

~~((OR~~

*) (v) A three-point lock.

(b) Padlocks must:

(*) (i) Have a minimum of five tumblers;

(*) (ii) Have a case hardened shackle at least 3/8 inches in diameter;

(*) (iii) Be protected with a minimum of 1/4-inch steel hoods, constructed to prevent sawing or lever action on the locks, hasps, and staples.

Note: These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

~~((7))~~ (8) Ventilation.

(*) (a) A two-inch air space must be left around ceilings and the perimeter of floors, except in doorways;

(*) (b) Foundation ventilators must be at least four inches by six inches;

(*) (c) Vents in the foundation, roof, or gables must be screened and offset.

~~((8))~~ (9) Exposed metal.

(*) (a) Sparking metal construction cannot be exposed below the tops of walls in storage facilities;

(*) (b) All nails must be blind nailed, countersunk, or nonsparking.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-70015 Igloos, army-type structures, tunnels, and dugouts. These storage facilities must:

((*) (1) Be constructed of reinforced concrete, masonry, metal, or a combination of these materials.

((*) (2) Have an earth mound covering of at least twenty-four inches on the top, sides, and rear unless the magazine meets the requirements of WAC 296-52-70010 (4)(b), Building construction for roofs.

((*) (3) Have interior walls and floors covered with a nonsparking material.

((*) (4) Be constructed according to the requirements of WAC 296-52-70005, Type 1 magazines: Permanent storage facilities, through WAC 296-52-70060(7) construction.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-70020 Type 2 magazines: Portable field storage. A Type 2 storage facility must:

((*) (1) Be a box, trailer, semi-trailer, or other mobile facility. When an unattended vehicular magazine is used, the wheels must be removed or it must be effectively immobilized by kingpin locking devices or other methods approved by the department.

((*) (2) Be bullet resistant, fire resistant, weather resistant, theft resistant, and well ventilated.

((*) (3) Be a minimum of one cubic yard.

((*) (4) Be supported to prevent direct contact with the ground.

((*) (5) Have the ground around the magazine slope away for drainage or provide for other adequate drainage.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-70025 Construction for Type 2 magazines. (1) **Exterior, doors, and top openings.**

(a) The exterior and doors must be constructed of at least 1/4-inch steel and lined with a minimum of three-inch hardwood.

(b) Magazines with top openings must have lids with water resistant seals or lids that overlap the sides by a minimum of one inch when closed.

(2) **Hinges and hasps.** Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

((*) (a) Welding;

((*) (b) Riveting; or

~~((OR~~

*) (c) Bolting nuts on the inside of the door.

(3) **Locks.**

(a) Each door must be equipped with:

((*) (i) Two mortise locks;

((*) (ii) Two padlocks fastened in separate hasps and staples;

((*) (iii) A combination of mortise lock and a padlock;

((*) (iv) A mortise lock that requires two keys to open;

or

~~((OR~~

*) (v) A three-point lock.

(b) Padlocks must have:

((*) (i) A minimum of five tumblers and a case hardened shackle with a minimum of 3/8-inch diameter;

((*) (ii) A minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples.

Note: These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

(4) **Ventilation.**

((*) (a) A two-inch air space must be left around ceilings and the perimeter of floors, except at doorways;

((*) (b) Foundation ventilators must be at least four inches by six inches;

((*) (c) Vents in the foundation, roof, or gables must be screened and offset.

(5) **Exposed metal.**

((*) (a) Sparking metal cannot be exposed below the top of walls in the storage facilities;

((*) (b) All nails must be blind nailed, countersunk, or nonsparking.

Note: The following are nonmandatory construction alternatives for magazine exteriors:

((-) 1. All steel and wood dimensions shown are actual thickness;

((-) 2. The manufacturer's represented thickness may be used to meet the concrete block and brick dimensions.

3/16

((*) (c) 3/16-inch steel lined with an interior of 4-inch hardwood.

((*) (d) 3/16-inch steel lined with:

(i) An interior of 7 inches of softwood; or

~~((OR))~~

(ii) 6 3/4 inches of plywood.

((*) (e) 3/16-inch steel lined with:

(i) An intermediate layer of 3-inch hardwood; and

~~((AND))~~

(ii) An interior lining of 3/4-inch plywood.

1/8

((*) (f) 1/8-inch steel lined with an interior of 5-inch hardwood.

((*) (g) 1/8-inch steel lined with an interior of 9-inch softwood.

((*) (h) 1/8-inch steel lined with:

(i) An intermediate layer of 4-inch hardwood; and

~~((AND))~~

(ii) An interior lining of 3/4-inch plywood.

((*) (i) Reserved.

(j) 1/8-inch steel lined with:

(i) A first intermediate layer of 3/4-inch plywood((-);

(ii) A second intermediate layer of 3 5/8 inches well-tamped dry sand; or

~~((OR))~~

(iii) Sand/cement mixture.

(6) An interior lining of 3/4-inch plywood.

((*) (a) 5/8-inch steel lined with an interior of any type of nonsparking material.

((*) (b) 1/2-inch steel lined with an interior of at least 3/8-inch plywood.

((*) (c) 3/8-inch steel lined with an interior of 2-inch hardwood.

((*) (d) 3/8-inch steel lined with an interior of:

(i) 3 inches softwood; or

((OR))

(ii) 2 1/4 inches of plywood.

((*) (e) 1/4-inch steel lined with:

(i) An interior of 5 inches of softwood; or

((OR))

(ii) 5 1/4 inches of plywood.

((*) (f) Any type of structurally sound fire resistant material lined with:

(i) An intermediate layer of 4-inch solid concrete block; or

or

((OR))

(ii) 4-inch solid brick or concrete; and

((AND))

(iii) An interior lining of 1/2-inch plywood placed securely against the masonry lining.

((*) (g) Standard 8-inch concrete block with voids filled with well tamped sand/cement mixture.

((*) (h) Standard 8-inch solid brick.

((*) (i) Reserved.

(j) Any type of structurally sound fire resistant material lined with an intermediate 6-inch space filled with:

(i) Well tamped dry sand; or

((OR))

(ii) Well tamped sand/cement mixture.

((*) (k) Any type of fire resistant material lined with:

(i) A first intermediate layer of 3/4-inch plywood((:));

(ii) A second intermediate layer of 3 5/8-inch well tamped dry sand; or

((OR))

(iii) Sand/cement mixture((:));

(iv) A third intermediate layer of 3/4-inch plywood((:));

(v) A fourth intermediate layer of 2-inch hardwood; or

((OR))

(vi) 14 gauge steel and an interior lining of 3/4-inch plywood((:));

(vii) 8-inch thick solid concrete.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-70030 Type 3 magazines: Indoor storage facilities. ((*) (1) Detonators in quantities of one thousand or less;

((*) (2) Ammonium perchlorate rocket motors in 62.5 gram amounts or greater, but not to exceed fifty pounds in total weight of explosives((:)); or

((OR))

((*) (3) Diversionary devices intended for law enforcement use only, but not to exceed fifty pounds in total weight of explosives.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-70035 Storage facilities for detonators. Storage facilities for detonators in quantities of one thousand or less:

((*) (1) Must be fire resistant and theft resistant;

((*) (2) Must be locked in an uninhabited building;

((*) (3) May be less than one cubic yard;

((*) (4) Must be painted red and have an identification label in case of fire.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-70045 Type 4 magazines: Blasting agent, low explosive, or nonmass detonating detonator storage facilities. A Type 4 storage facility must:

((*) (1) Be a building, an igloo, an army-type structure, a tunnel, a dugout, a box, a trailer, semi-trailer, or other mobile facility;

((*) (2) Be fire resistant, weather resistant, and theft resistant;

((*) (3) Have the ground around the facility slope away for drainage;

((*) (4) Have the wheels removed or effectively immobilized by kingpin locking devices or other methods approved by the department, when an unattended vehicular magazine is used.

Note: Test results show that electric detonators are not affected by sympathetic detonation. Therefore, a Type 4 storage facility meets the necessary requirements for storage of electric detonators.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-70050 Construction for Type 4 magazines. (1) These magazines must be constructed of masonry, metal covered wood, fabricated metal, or a combination of these materials.

(2) **Foundations.** Foundations must be constructed of:

((*) (a) Brick;

((*) (b) Concrete;

((*) (c) Cement block;

((*) (d) Stone;

((*) (e) Metal; or

((OR))

((*) (f) Wood posts;

(3) The space under the building must be enclosed with fire resistant material, if piers or posts replace continuous foundation.

(4) The walls and floors must be made or covered with a nonsparking material or lattice work.

(5) Doors must be metal or solid wood covered with metal.

(6) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

((*) (a) Welding;

((*) (b) Riveting; or

((OR))

((*) (c) Bolting nuts on the inside of the door.

(7) **Locks.**

(a) Each door must be equipped with:

((*) (i) Two mortise locks;

((*) (ii) Two padlocks fastened in separate hasps and staples;

((*) (iii) A combination of a mortise lock and a padlock;

((*) (iv) A mortise lock that requires two keys to open;
or

((OR

*) (v) A three-point lock;

(b) Padlocks must:

((*) (i) Have a minimum of five tumblers;

((*) (ii) Have a case hardened shackle of a minimum of 3/8-inch diameter;

((*) (iii) Be protected with a minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples.

Note: These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-70055 Type 5 magazines: Blasting agent storage facilities. A Type 5 storage facility must:

((*) (1) Be a building, an igloo, an army-type structure, a tunnel, a dugout, a box, or a trailer, semi-trailer, or other mobile facility;

((*) (2) Be weather resistant and theft resistant;

((*) (3) Have the ground around the facility slope away for drainage;

((*) (4) Have the wheels removed or be effectively immobilized by kingpin locking devices or other methods approved by the department, when the unattended vehicular magazine is used.

AMENDATORY SECTION (Amending WSR 05-08-110, filed 4/5/05, effective 6/1/05)

WAC 296-52-70060 Construction for Type 5 magazines. (1) Doors must be constructed of solid wood or metal.

(2) Hinges and hasps must be installed so they cannot be removed when the doors are closed and locked by:

((*) (a) Welding;

((*) (b) Riveting; or

((OR

*) (c) Bolting nuts on the inside of the door.

(3) **Locks.**

(a) Each door must be equipped with:

((*) (i) Two mortise locks;

((*) (ii) Two padlocks fastened in separate hasps and staples;

((*) (iii) A combination of a mortise lock and a padlock;

((*) (iv) A mortise lock that requires two keys to open;

or

((OR

*) (v) A three-point lock;

(b) Padlocks must have:

((*) (i) A minimum of five tumblers;

((*) (ii) A case hardened shackle of a minimum of 3/8-inch diameter;

((*) (iii) Padlocks must be protected with a minimum of 1/4-inch steel hoods constructed to prevent sawing or lever action on the locks, hasps, and staples.

Note: Trailers, semi-trailers, and similar vehicular magazines. Each door may be locked with one 3/8-inch diameter steel padlock and does not need to be protected by a steel hood, if the door hinges and lock hasp are securely fastened to the magazine and to the doorframe. These requirements do not apply to magazine doors that are adequately secured on the inside by means of a bolt, lock, or bar that cannot be operated from the outside.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-70065 Explosives day box. (1) A day box for explosives must:

((*) (a) Be fire, weather, and theft resistant;

((*) (b) Be used in a manner that safely separates detonators from other explosives;

((*) (c) Be constructed of a minimum of number 12 gauge (.1046 inches) steel;

((*) (d) Be lined with at least either 1/2-inch plywood or 1/2-inch masonite-type hardboard;

((*) (e) Have doors that overlap the sides by a minimum of one inch;

((*) (f) Have appropriate ground slope for drainage;

(2) Hinges and hasps must be attached by:

((*) (a) Welding;

((*) (b) Riveting; or

((OR

*) (c) Bolting nuts on the inside of the door.

(3) One steel padlock, which does not need to be protected by a steel hood, having a minimum of five tumblers and a case hardened shackle of a minimum of 3/8-inch diameter is sufficient for locking purposes.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-70070 Detonator day box. A detonator day box is a temporary storage facility for detonators in quantities of one thousand or less.

(1) **Construction materials.** Sides, bottoms, and covers must be:

((*) (a) Constructed of number 12 gauge metal;

((*) (b) Lined with a nonsparking material;

(2) Hinges and hasps must be attached by:

((*) (a) Welding;

((*) (b) Riveting; or

((OR

*) (c) Bolting nuts on the inside of the door.

(3) A single five tumbler lock must be used to lock the detonator day box.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-70080 Magazine heating system requirements. Magazine heating system requirements and the following apply:

(1) **Heat sources.** Magazines requiring heat must be heated by either:

((*) (a) Hot water radiant heating; or

((OR

*) (b) Air directed into the magazine building by hot water or low pressure steam (15 psig) coils located outside the magazine building.

(2) **Heating systems.** Magazine heating systems must meet the following requirements:

(a) The radiant heating coils in the building must be installed where explosive materials or their containers cannot touch the coils and air is free to circulate between the coils and the explosive material containers.

(b) The heating ducts must be installed where the hot air released from a duct is not directed toward the explosive material or containers.

(c) The heating device used in connection with a magazine must have controls, to prevent the building temperature from exceeding 130°F.

(d) The electric fan or pump used in the heating system for a magazine must be:

((*) (i) Mounted outside;

((*) (ii) Separate from the wall of the magazine;

((*) (iii) Grounded.

(e) **Electric motor, device controls, and electric switch gear.**

(i) The electric fan motor and the controls for electrical heating devices used in heating water or steam must have overloads and disconnects which comply with the National Electrical Code, (NFPA Number 70-1992).

(ii) All electrical switch gear must be located a minimum distance of twenty-five feet from the magazine.

(f) **Water or steam heating source.**

(i) A heating source for water or steam must be separated from a magazine by a distance of at least:

((*) (A) Twenty-five feet when the heating source is electrical;

((*) (B) Fifty feet when the heating source is fuel fired.

(ii) The area between a heating unit and a magazine cannot contain combustible materials.

(g) The storage of explosive material containers in the magazine must allow for uniform air circulation, so temperature uniformity can be maintained throughout the explosive materials.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-70085 Lighting. (1) Battery activated safety lights or lanterns may be used in explosive storage magazines.

(2) **National Fire Protection Association (NFPA) Standards.**

(a) Electric lighting used in an explosive storage magazine must meet National Electric Code (NEC) standards (NFPA 70-1992) for all magazine conditions.

(b) All electrical switches must:

((*) (i) Be located outside the magazine;

((*) (ii) Meet NEC standards.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-71025 Separation from flammable materials. Small arms ammunition must be separated from

flammable liquids, flammable solids (as classified in 49 C.F.R. Part 172), and oxidizing materials by a:

((*) (1) Fire resistant wall with a one-hour rating; or

((~~OR~~

*) (2) Distance of twenty-five feet.

AMENDATORY SECTION (Amending WSR 03-06-073, filed 3/4/03, effective 8/1/03)

WAC 296-52-71040 Shipping container. ((*) (1) Small arms smokeless powder (Division 1.2 or 1.3) must be packed, stored, and transported in U.S. DOT approved shipping containers.

((*) (2) All smokeless powder must be stored in shipping containers made for smokeless powder (as required by 49 C.F.R. 173.93).

AMENDATORY SECTION (Amending WSR 03-06-073, filed 3/4/03, effective 8/1/03)

WAC 296-52-71045 Storage. (1) **Private residence or car.**

((*) (a) Twenty-five pounds or less of small arms smokeless powder, no restrictions;

((*) (b) Twenty-five to fifty pounds of small arms smokeless powder, they must be stored in a strong box or cabinet constructed of a minimum of 3/4-inch plywood or equivalent material, on all sides, top, and bottom.

(2) **Commercial stocks.**

((*) (a) Over twenty pounds but not more than one hundred pounds of small arms smokeless powder must be stored in portable wooden boxes with a minimum of one-inch thick walls;

((*) (b) Small arms smokeless powder not exceeding one hundred fifty pounds, must be stored in a nonportable storage cabinet with a minimum of one-inch thick wood walls.

(3) **Dealer's warehouse.**

((*) (a) A dealer's warehouse cannot hold more than one hundred fifty pounds of small arms smokeless powder;

((*) (b) Twenty to one hundred pounds of small arms smokeless powder must be stored in a minimum of one-inch thick portable or fixed wooden boxes.

(4) **Dealer's display.**

((*) (a) The dealer's display cannot exceed more than seventy-five pounds of small arms smokeless powder;

((*) (b) Small arms smokeless powder must be stored in one-pound containers.

(5) **Magazines.** Small arms smokeless powder that exceed one hundred fifty pounds must be stored in approved licensed magazines. See Storage licensing, WAC 296-52-660, Storage of explosive materials, WAC 296-52-690, and Magazine construction, WAC 296-52-700.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-71060 Separation from flammable materials. Primers must be separate from flammable liquids, flammable solids, and oxidizing materials by a:

((*) (1) Fire resistant wall with a one hour rating; or

- ~~((OR~~
 *) (2) Distance of twenty-five feet.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-71065 Storage. (1) **Private residence.** The maximum small arms ammunition primers permitted is ten thousand primers. No restrictions apply.

(2) **Private car.** The maximum small arms ammunition primers permitted is twenty-five thousand primers. No restrictions apply.

(3) **Dealer's display.** The maximum small arms ammunition primers permitted is ten thousand primers. No restrictions apply.

(4) **Dealer's warehouse.** ((*) The maximum small arms ammunition primers permitted is seven hundred fifty thousand primers.

((-) (a) No more than one hundred thousand small arms ammunition primers may be stored in one stack;

((-) (b) Stacks must be separated by at least fifteen feet.

(5) **Magazines.** If there are more than seven hundred fifty thousand small arms ammunition primers, they must be stored in approved licensed magazines (see Storage licensing, WAC 296-52-660, Storage of explosive material, WAC 296-52-690, and Magazine construction, WAC 296-52-700).

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-71095 Hours of transfer. Explosives cannot be received between sunset and sunrise from any:

- ((*) (1) Railway station;
 ((*) (2) Truck terminal;
 ((*) (3) Pier;
 ((*) (4) Wharf;
 ((*) (5) Harbor facility; or
 ((OR
 *) (6) Airport terminal.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-71100 Storage in route. Explosives waiting for delivery or further transit at a railway facility, truck terminal, pier, wharf, harbor facility, or airport terminal must be:

- ((*) (1) Stored in a safe place;
 ((*) (2) Isolated as much as practical;
 ((*) (3) In a manner that allows quick and easy removal.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-71105 Railway cars. (1) **Use of railway cars.**

Explosives cannot be kept in a railway car unless:

- ((*) (a) An emergency exists;
 ((*) (b) Permission has been granted by the local authority;

((*) (c) The railway car, its contents, and methods of loading are in compliance with U.S. DOT regulations (49 C.F.R. Chapter 1).

(2) **Warning signs for railway cars not in transit.**

((*) (a) Any railway car containing explosives must have warning signs attached to every side of the car when it is:

((-) (i) Stopped in transit; or

((OR

-) (ii) At its designation; and

((AND

-) (iii) No longer considered in interstate commerce.

((*) (b) Warning signs must read "EXPLOSIVES—HANDLE CAREFULLY—KEEP FIRE AWAY."

The letters must be:

((-) (i) Red;

((-) (ii) At least one and one-half inches high;

((-) (iii) On a white background.

AMENDATORY SECTION (Amending WSR 02-03-125, filed 1/23/02, effective 3/1/02)

WAC 296-52-720 Appendix A, sample explosives-blasting ordinance for local jurisdictions, nonmandatory.

Explosives-blasting ordinance for local jurisdictions

Be it ordained by the _____ (jurisdiction name).

Section 1: Permit required.

(1) A current and valid blasting permit issued by _____ (jurisdiction name) is required by companies or individuals who:

((*) (a) Possess explosive materials (as defined by chapter 296-52 WAC, Safety standards for possessions and handling of explosives);

((*) (b) Conduct an operation or activity requiring the use of explosive materials; or

((OR

*) (c) Perform, order, or supervise the loading and firing of high explosive materials.

(2) Anyone in _____ (jurisdiction name) who does not have a valid blasting permit cannot transport, sell, give, deliver, or transfer explosive materials.

(3) A blasting permit is required for every individual project requiring blasting explosives.

(4) A permit issued to any person, company, or corporation under this ordinance is nontransferable to any other person, company, or corporation.

(5) All blasting permits issued by _____ (jurisdiction name) must follow all federal, state, county, and city laws and regulations that apply to these activities with explosive materials:

((*) (a) Obtaining;

((*) (b) Owning;

((*) (c) Transporting;

((*) (d) Storing;

((*) (e) Handling;

((*) (f) Using.

Section 2: Application contents.

(1) The proper administrative authority (____name____) or their designee, has the power and authority to issue blasting permits and requires persons, companies, or corporations who are issued permits to file an application that includes:

(a) A completed application form provided by _____ (jurisdiction name) specifying the name and address of the person, company or corporation applying for the permit, and the name and address of the blast site or the person who will actually supervise the blasting.

(b) A current and valid explosives license issued by the state of Washington department of labor and industries to one or more individuals working on the specific blasting project.

(c) A transportation plan according to Section 8.

(d) A blasting plan according to Section 10(1).

(e) A traffic control plan according to Section 10(2).

(f) A preblast; notification, inspection, and monitoring plan according to Section 10(3).

(g) Proof of insurance must be provided according to Section 4.

(2) _____ (jurisdiction name) will issue a permit within fourteen days of receiving an application that includes acceptable documentation of the above items 1 a through g through 7. If the permit is denied, it must be done within fourteen days of administering authority receipt and must include a list of reasons for denial as well as instructions for reapplication.

Section 3: Fee.

A permit fee is required for each permit issued. It should be:

((*) (1) Valid for twelve months;

((*) (2) Follow the local fee schedule;

((*) (3) Renewable.

Section 4: Liability insurance required.

(1) If the _____ (jurisdiction name) design requires approval, then coverage of one million dollars or more is required or other reasonable amount depending on the circumstances as determined by _____ (name of the proper administrative authority).

(2) The certificate must also state that the insurance company must give _____ (jurisdiction name) a minimum of ten days notice of cancellation of the liability insurance coverage.

(3) The _____ (name of the proper administrative authority) has the power and authority to limit the level of blasting. After examining all pertinent circumstances surrounding the proposed blasting, they may refuse to issue a permit, or suspend, or revoke an existing permit.

Section 5: Revocation.

The _____ (name of the proper administrative authority) has the power to revoke any permit if the permit holder does not follow the requirements of this chapter. The permit holder has twenty-four hours to remove all explosive materials after being notified that their permit has been revoked.

Section 6: Denial or revocation appeal.

Any person, company, or corporation whose blasting permit application is denied, suspended, or revoked by _____ (name of proper authority), may file a notice of appeal within ten days to _____ (name of the legislative body with jurisdiction over the administrator).

- The legislative body must schedule an appeals hearing within fourteen days.

Section 7: _____ (jurisdiction name) not to assume liability.

_____ (jurisdiction name) is not responsible for any damage caused by the person, company, or corporation blasting with _____ (jurisdiction name).

Section 8: Transportation of explosives (transportation plan).

(1) You must include a transportation plan that addresses the transportation of explosive materials within _____ (jurisdiction name) with your application for a blasting permit.

(2) The transportation plan must include the following information:

(a) Route used for deliveries and returns

(b) Hours of transportation

(c) Maximum quantities of explosives being transported

(d) Types of vehicles being used. Vehicles must be in compliance with federal and state transportation regulations for transportation of explosive material.

Section 9: Storage of explosives.

(1) No overnight storage of explosive material is permitted within the limits of _____ (jurisdiction area) without specific amendments to the permit allowing storage. Blast holes loaded with explosives are to be shot on the day they are loaded.

(2) The required method of handling explosives in _____ (jurisdiction area) is as follows:

(a) Same day delivery

(b) Stand by during loading

(c) Return of all unused explosive materials.

Section 10: Use of explosives.

(1) **Blasting plan.** A blasting plan for each project must be submitted to _____ and approved by the _____ (name of the proper administrative authority) or their designee prior to issuing a blasting permit. The plan must include additional documentation for the proposed blasting operation. For example, maps, site plans, and excavation drawings. The plan must include:

(a) The location where the blast will occur

(b) The approximate total amount of material to be blasted

(c) The incremental volumes, per blast, of material to be blasted

(d) The types and packaging of explosive materials to be used

(e) The drill hole diameters, depths, patterns, subdrilling depths and drill hole orientation to be used

(f) The initiation system, the incremental delay times, and the location of the primers in the explosive column

(g) The stemming depths and stemming material for the various estimated depths of drill holes to be blasted

(h) The approximate powder factors anticipated

(i) The flyrock control procedures and equipment to be used

(j) The maximum number of blasts that will be made in one day

(k) The blast warning sound system and equipment to be used

(l) The scheduled start date and finish date of blasting operations

(m) Additional requirements as needed.

(2) **Traffic control plan.** A traffic control plan acceptable to _____ (jurisdiction name) detailing signing, flagging, temporary road closures, and detour routes for blasting operations must be filed before the blasting permit is issued.

(3) **Preblast notification plan.** A plan outlining preblast public notifications, structural inspections, and blast effect monitoring within a specified distance of the blasting is required before the blasting permit is issued.

(a) **Separation distance.** The distances from the blasting where the notification, preblast structural inspection, and blast monitoring is required must be determined by the scaled distance formulas described below. Blasting will not be permitted until the notification and inspection requirements are completed.

(b) **Scaled distance formulas.**

(i) The distance from the blast within which:

(*) (A) Notification of all occupied structures is required: $D_a = 90 w_i$

(*) (B) Inspection of all occupied structures is required: $D_b = 75 w_i$

(*) (C) Monitoring of selected structures is required: $D_c = 60 w_i$

(ii) In the above formulas:

(*) (A) D_a , D_b , and D_c are the actual distances in feet from the closest point in the blast.

(*) (B) w is the square root of the maximum weight of the explosives in pounds detonated with a minimum 8 millisecond from another detonation event.

(c) **Notification letter.** The preblast notification must consist of a letter advising all residents within the distance (specified in WAC 296-52-720 section 10 (3)(b)) of the blasts. The letter must include the intent of the blasting program, its anticipated impact on local residents, the proposed duration of blasting activities, and provide telephone numbers for public contact. Distribution of this notification must be made a minimum of seven days before the start of blasting. The source of the chart is 121.8507, Bureau of Mines, U.S. Department of Interior, 1980.

(d) **Preblast inspection.** A preblast inspection of resident's property must be offered to all residents within the distance (specified in WAC 296-52-720 section 10 (3)(b) above) of the blasting at no cost to the resident and will be preformed by a qualified third party who is not an employee of the con-

tractor. A copy of the individual inspection reports and a log of all photos taken are to be provided to _____ (jurisdiction name). Where inspections are not allowed by the resident or are not possible for other reasons, a certified letter must be sent to the occupant/owner at the unsurveyed address advising them of their right to a preblast inspection and the possible consequences of denying an inspection. The preblast inspection program for residences within the specified distance must be complete two days prior to the start of blasting and the _____ (name of the proper administrative authority) should be notified.

(4) **Blast-plan compliance inspections.** Blast-plan compliance inspections may be required for every blast until the operator can demonstrate an ability to safely blast according to the blast plan and control the extraneous effects of blasting such as flyrock, noise/air blast, and ground vibration. If more than two blasting inspections are required, an additional fee of _____ (insert dollar amount) per blast inspection will be assessed.

(5) **Monitoring.** All blasts which require monitoring by section 10 (3)(b) are to be monitored using blast monitoring equipment designed for the purpose and carrying a certificate of calibration dated within the previous twelve months. The blast monitors must record peak particle velocity and frequency in three orthogonal directions and air over pressure. Monitored shots in which the pounds detonated per an 8-millisecond time increment is less than ten pounds, one blast monitor is required. When ten or more pounds is detonated per an 8-millisecond time interval, two or more blast monitors are required. All blast-monitoring records are to be signed and submitted to _____ (jurisdiction name) within twenty-four hours of each blast.

(6) **Maximum peak particle velocity.** The maximum peak particle velocity in any seismic trace at the dominant frequency allowed on any residential, business or public structure designed for human occupancy is to be determined by the chart in WAC 296-52-67065(1).

(7) **Air blast.** The maximum air blast over pressure permitted at the closest residential, business or public structure designed for human occupancy is not to exceed 133 dBL @ 2.0 Hz hi pass system per WAC 296-52-67065(3). The source of this regulation is 121.8485, Bureau of Mines, U.S. Department of Interior, 1980.

(8) **Utilities.** Whenever blasting is being conducted in close proximity to existing utilities, the utility owner must be notified a minimum of twenty-four hours in advance of blasting.

(9) **Blast report.** A signed blast report, on a form approved by the _____ (name of the proper administrative authority) or their designee, needs to be filed with _____ (jurisdiction name) within twenty-four hours of the blast. The report must include the following blast information:

(a) Date, time, and location of the blast

(b) Number of drill holes

(c) Maximum, minimum and average drill hole depth

(d) Drill hole diameter

(e) Subdrill depth

(f) Total pounds of each type of explosive used

- (g) A drill hole section schematic showing the loading of a typical hole
 - (h) Amount and type of stemming material
 - (i) Schematic showing the drill hole pattern
 - (j) Initiated delayed sequence
 - (k) Maximum pounds of explosives detonated in any eight millisecond time interval
 - (l) Type and size of any flyrock protection devices used, if any
 - (m) Comment regarding the outcomes of the blast.
- (10) _____ (jurisdiction name) must be notified immediately of any unplanned or unusual events that resulted from the blast. The permittee must also report any incident, damage claim, or neighbor annoyance report brought to the permittee's attention within twenty-four hours.

Section 11:

This ordinance will be in effect to preserve the health, peace, and safety of the citizens of _____ (jurisdiction name).

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-800 Avalanche control. (1) General.

- (a) During periods of high avalanche danger, areas in avalanche paths ((shall)) must not be opened for use until trained personnel have evaluated conditions and determined whether avalanche control work is necessary.
- (b) When avalanche control work is deemed necessary, areas in the potential avalanche path ((shall)) must be closed until the risk of avalanches has been reduced to a level determined appropriate by trained personnel.
- (c) An avalanche ((shall)) must not be purposely released until the avalanche path and potential runout zone are clear of personnel and vehicles.
- (d) Avalanche guards, signs, and/or barricades ((shall)) must be positioned at normal entrances to the avalanche path if there is any chance that personnel and vehicles will enter the danger zone during intentional release activities.
- (e) During very unstable snow conditions, release of one avalanche may trigger sympathetic releases over a wide area. Avalanche workers ((shall)) must consider such possibility and clear the appropriate areas of personnel and vehicles.

(2) Personnel and equipment.

- (a) The avalanche control crew ((shall)) must be adequately trained and physically capable for tasks which can be anticipated in their individual job assignments.
- (b) No person ((shall)) must accept or be given a job assignment which is beyond the individual's physical ability or training.
- (c) On-slope assignments which include potential exposure to avalanche hazards ((shall)) must only be conducted by fully qualified and fully equipped control crew members.
- (d) The control crew may be split up into smaller groups (teams) to work on multiple areas simultaneously provided that each team consists of at least two qualified members.
- (e) Each avalanche control crew or team ((shall)) must have one or more designated rescue coordinators as is deemed necessary to maintain communications. Compliance

with this requirement may be achieved by designating control crew teams to serve as each others' rescue coordinator provided that the teams are reasonably proximate to each other and do in fact maintain frequent communications.

(f) Each avalanche control crew member ((shall)) must be equipped for continuous two-way communications to the avalanche crew coordinators.

(g) The avalanche crew or teams ((shall)) must not be assigned to on-slope areas where they cannot maintain communications with their designated coordinator. This requirement may be met by the use of a relay person; however, if any team completely loses communications, they ((shall)) must return directly to base via the safest route available.

(h) Each person on an avalanche control team ((shall)) must be equipped with a shovel and an electronic transceiver before commencing on-slope control work. The transceiver ((shall)) must be in the transmit position whenever personnel are performing on-slope job assignments.

(3) Avalanche rescue plan. All employers with avalanche control personnel ((shall)) must have a written avalanche rescue plan. The plan ((shall)) must require:

(a) All rescue personnel who will be assigned to on-slope activities ((shall)) must:

- (i) Be competent skiers;
- (ii) Have a current first-aid card;
- (iii) Be thoroughly trained in the rescue plan details;
- (b) A specific list of required equipment for rescue crew personnel including:

- (i) Probes;
- (ii) Belaying rope;
- (iii) Shovels;
- (iv) Two-way communication radios;
- (v) Electronic transceivers;
- (c) A list of rescue equipment locations;
- (d) Specific rescue procedures to be followed.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-803 Storage, makeup, and use of explosives for avalanche control blasting. (1) General.

(a) The storage, handling, and use of explosives and blasting agents used in avalanche control practices ((shall)) must comply with this chapter and chapter 70.74 RCW.

(b) The minimum requirements published in chapter 296-52 WAC, Part H, ((shall)) must be applicable to the storage, handling, and use of explosives and blasting agents in the endeavor of avalanche control.

(2) Management responsibility.

(a) Explosives and blasting agents ((shall)) must not be stored in any regularly occupied areas or buildings except in compliance with this chapter.

(b) Explosives and blasting agents ((shall)) must not be assembled or combined to form armed charges in any regularly occupied area or building except in compliance with this chapter.

(3) Personnel.

(a) Only fully qualified and licensed blasters ((shall)) must be permitted to assemble or arm explosives components.

(b) Training ((~~shall~~)) must include avalanche blasting experience so that the problems encountered in cold weather blasting are known factors.

(c) All training activities ((~~shall~~)) must be conducted under the attended supervision of a fully qualified and licensed blaster.

(4) General requirements.

(a) Initiating systems for hand-placed or hand-thrown charges.

(i) The ignition system on single-unit hand-thrown charges ((~~shall~~)) must consist of a nonelectric cap or shock tube and approved initiation system.

(ii) Multiple units combined to form a single hand-placed charge may use the above system, an approved detonating cord system or shock tube system. No other ignition system ((~~shall~~)) must be permissible without specific approval by the department.

(iii) When using a shock tube system, after all charges are in place, connected to the shock tube trunk line and ready for initiation, the shock tube initiation tool ((~~shall~~)) must be attached for firing.

(b) Multiple charge blasts.

(i) Detonating cord or shock tube system ((~~shall~~)) must be used in lieu of blasting wire to connect multiple charge blasts.

(ii) When using detonating cord systems, after all charges are placed, connected to the detonating cord, and the charges are ready to be ignited, a safety fuse and cap ((~~shall~~)) must be attached to the detonating cord. A fuse igniter may then be attached to ignite the safety fuse.

(c) Blasting caps ((~~shall~~)) must be no larger than No. 8 except when recommended by the explosives manufacturer for a particular explosive used within a specific application.

(d) Electric blasting caps are not permitted.

(e) Safety fuse and shock tube.

(i) Only the highest quality safety fuse with excellent water resistance and flexibility ((~~shall~~)) must be used.

(ii) Shock tube systems may be used in place of fuse cap and safety fuse systems.

(f) Fuse length.

(i) Safety fuse length ((~~shall~~)) must be selected to permit the control team adequate escapement time from the blast area under all reasonable contingencies (falls, release of bindings, etc.)

(ii) In no instance ((~~shall~~)) must a fuse length with less than ninety seconds burn time be permitted.

(iii) The burn time of each roll of safety fuse ((~~shall~~)) must be checked prior to use.

(iv) Checked rolls ((~~shall~~)) must be marked with the tested burn time.

(v) It is recommended that all hand charges be prepared for ignition with either one safety fuse and igniter or a double safety fuse and igniters.

Note: Standard safety fuse burns at a rate of forty to fifty-five seconds at two thousand five hundred meters elevation. This rate equates to approximately twenty-four inches fuse length for ninety second hand charge fuses at normal avalanche control elevations, but fuse burn rate should be checked before each use.

(5) Explosives.

(a) Explosives chosen ((~~shall~~)) must have a safe shelf life of at least one operating season in the storage facilities in which it will be stored.

(b) Explosives chosen ((~~shall~~)) must have excellent water and freezing resistance.

(c) Industrial primers (or boosters) that consist mainly of TNT or gelatin are the recommended explosives.

(6) Transporting explosives and hand charges.

(a) Hand charges or explosives components ((~~shall~~)) must be transported in approved type avalanche control packs, in United States Department of Transportation-approved shipping containers or in licensed magazines.

(b) Criteria for avalanche control packs.

(i) The pack ((~~shall~~)) must be constructed of water resistant material.

(ii) Packs ((~~shall~~)) must be constructed with sufficient individual compartments to separate hand charges or explosives components from tools or other equipment or supplies which may be carried in the pack.

(iii) Each compartment used for hand charges or explosives components ((~~shall~~)) must have an independent closure means.

(iv) If fuse igniters will be permitted to be carried on the avalanche control pack, a separate compartment with individual closure means ((~~shall~~)) must be attached to the outside of the exterior of the pack.

(c) Use of avalanche control packs.

(i) Packs ((~~shall~~)) must be inspected daily, prior to loading, for holes or faulty compartment closures. Defective packs ((~~shall~~)) must not be used until adequately repaired.

(ii) Tools or other materials ((~~shall~~)) must not be placed in any compartment which contains hand charges or explosives components.

(iii) Fuse igniters ((~~shall~~)) must never be placed anywhere inside the pack when the pack contains hand charges or other explosives components.

(iv) Fuse igniters may be carried in a separate compartment attached to the outside of the pack exterior but preferably in a compartment attached to the front of the carrying harness. Another acceptable alternative is to carry the igniters in a jacket pocket completely separate from the pack.

(v) Hand charges or explosives components ((~~shall~~)) must not be stored or left unattended in avalanche control packs. Unused hand charges ((~~shall~~)) must be promptly disassembled at the end of individual control routes and all components returned to approved storage.

(vi) Individual control team members ((~~shall~~)) must not carry more than thirty-five pounds of hand charges in avalanche control packs.

(vii) A hand charge or cap and fuse assembly which has a fuse igniter attached ((~~shall~~)) must never be placed in an avalanche control pack for any reason.

(d) Whenever explosives or explosives components are transported in or on any vehicle powered by an internal combustion engine, provisions ((~~shall~~)) must be made to ensure that said explosives or containers cannot come into contact with the hot exhaust system.

(e) Hand charges or explosives components ((~~shall~~)) must not be transported in spark-producing metal containers.

(f) Hand charges ((shall)) must not be transported on public roads and highways when such roads or highways are open to the public. Explosives components ((shall)) must only be transported on public roads or highways in compliance with United States Department of Transportation regulations.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-805 Hand charge makeup methods.

General. The department ((shall)) must recognize two permissible methods concerning hand charges for avalanche control blasting. The descriptions and requirements for each method are contained in this section.

Note: A well-designed and constructed hand charge makeup room can enhance the correct assembly of explosive components and reduce the incidences of misfires from incorrect makeup or moisture.

(1) Method I. Makeup at the blast site.

(a) The ignition system ((shall)) must consist of a non-electrical blasting cap and highest quality water resistant safety fuse, or detonating cord, assembled as recommended by the manufacturer.

(b) Detonating cord ((shall)) must be used to connect separated multiple-charge blasts.

(c) No other ignition system ((shall)) must be permissible on hand-placed or hand-thrown avalanche control charges unless variance is granted by the department.

(d) Caps ((shall)) must be installed on correct length fuses prior to being transported out onto control routes.

(e) Caps ((shall)) must only be crimped with a crimper tool approved for that purpose.

(f) Assembling caps and fuses ((shall)) must be done in a warm, dry, well-lighted environment. The location used for assembly ((shall)) must not have flammable fuels, flammable gases, or explosives present where accidental detonation of the caps could create a secondary ignition or detonation hazard.

(g) Each cap ((shall)) must be protected by a styrofoam shield or the equivalent before being placed in an avalanche control pack for transportation.

(h) A fuse igniter ((shall)) must never be attached to a fuse until the fuse and cap assembly is installed in the hand charge at the blast site and the control crew is fully prepared to ignite the charge.

(i) All 1.1 explosives ((shall)) must be attended as defined in this chapter at all times when the explosive is out of the Type 1 or 2 storage magazine.

(j) Disbursement of explosive charges from the Type 1 or 2 storage magazine into avalanche control packs ((shall)) must be done outside the storage magazine. Records ((shall)) must be maintained for all explosives disbursed.

(k) Caps, cap and fuse assemblies, armed hand charges, or fuse igniters ((shall)) must not be carried into or stored in a Type 1 or 2 magazine which contains 1.1 explosives.

(2) Method II. Hand charge makeup room. This method is different from method I primarily in that the fuse and cap assembly is installed in the explosive charge while inside a

special makeup room. The assembly procedure ((shall)) must be as follows:

(a) Install caps on correct length fuses with an approved crimper tool before explosives are brought into the makeup room.

(b) The cap and fuse assemblies ((shall)) must not be combined with explosives to form hand charges until just before the intended time of distribution.

(c) Only nonsparking skewers ((shall)) must be used to punch holes in an explosives cartridge.

(d) The fuse ((shall)) must be laced or taped in position after inserting the cap in the charge.

(e) Each hand charge ((shall)) must be placed in an explosives box or avalanche control pack immediately after assembly is completed.

(f) No spark-producing metal tools ((shall)) must be used to open explosives containers.

(g) Fuse igniters ((shall)) must never be attached to a fuse or a hand charge until the hand charge is at the blast site and the control crew is fully prepared to ignite the charge.

(3) Makeup room requirements, procedures.

(a) Construction requirements.

(i) Makeup rooms located in accordance with the American Standard Quantity and Distance Tables for storage ((shall)) must not require construction of reinforced concrete walls, floors, and doors. All other requirements of this chapter ((shall)) must be applicable for such facilities.

(ii) Floors and walls. The floor and walls ((shall)) must be constructed of reinforced concrete not less than eight inches thick. The rebar ((shall be not)) must not be less than one-half inch diameter and ((shall)) must be spaced on twelve-inch vertical and horizontal centers. The rebar ((shall)) must be bent at a ninety degree angle and extend a minimum of twenty-four inches into the adjoining floor or wall to secure each floor and wall joint.

(iii) Roof. The roof is not limited to specific materials but ((shall)) must provide both weather protection and standard snow loading protection for the region.

(iv) Access door(s).

(A) If a hinged door mounting is utilized, the hinge ((shall)) must be mounted on the inside so that the door opens into the makeup room. In the fully closed position, in position to be locked, the door ((shall)) must be a minimum of two inches larger than the access opening on all sides.

(B) If a flush door mounting is utilized, the door ((shall)) must be mounted with a two-inch decreasing taper on all sides of both the door and the concrete access opening to form a wedge seal.

(C) If a sliding door mounting is utilized, the mounting apparatus ((shall)) must be on the inside of the makeup room and the door ((shall)) must be a minimum of two inches larger than the access opening when the door is fully closed.

(D) Makeup room door may be either:

(I) Constructed to the same structural integrity and mounting requirements of (A) through (C) of this subsection; or

(II) Constructed of plywood not less than two inches thick and overlaid on the outside with a steel plate not less than one-eighth inch thick.

(III) If a door which complies with (II) of this subsection is used, a berm or barricade ~~((shall))~~ must be installed within six feet of the door. The berm or barricade ~~((shall))~~ must extend at least as high as the top of the door and ~~((shall))~~ must be a minimum of two feet wider than the door on both sides of the door.

(E) For security purposes, one steel padlock having at least five tumblers and a case hardened shackle of at least three-eighths inch diameter is sufficient for locking purposes. Hinges and hasps ~~((shall))~~ must be attached so that they cannot be removed from the outside when in the closed position and with the lock in place.

(v) Interior finish. The inside of all makeup rooms ~~((shall))~~ must be finished and equipped to the following minimum requirements:

(A) Construction ~~((shall))~~ must be fire resistant and non-sparking up to the top of the walls. Nails or screws ~~((shall))~~ must be countersunk, blind nailed, or covered.

(B) Lighting ~~((shall))~~ must be by N.E.C. explosion-proof rated fixtures and all wiring ~~((shall))~~ must be in sealed conduit.

(C) Control switches ~~((shall))~~ must be outside the makeup room.

(D) No electrical outlet boxes are permissible inside the room.

(b) Restrictions.

(i) Smoking, matches, open flames, or flame- or spark-producing devices ~~((shall))~~ must not be permitted inside the makeup room.

(ii) Flammable liquids or flammable compressed gases ~~((shall))~~ must not be stored in the makeup room.

(iii) Signs limiting entry to authorized personnel ~~((shall))~~ must be posted on the door(s).

(iv) A sign stating the occupancy rules ~~((shall))~~ must be posted inside the makeup room where it is clearly legible upon entering the room. The sign ~~((shall))~~ must post the following rules:

(A) Occupancy ~~((shall))~~ must be restricted to specifically authorized personnel;

(B) Smoking, matches, flame- or spark-producing devices, tools or equipment ~~((shall))~~ must not be permitted in the room at any time when explosives or explosive components are present; and

(C) Flammable fuels or compressed gases ~~((shall))~~ must not be permitted inside the room nor stored within fifty feet of the room.

(v) Heating units ~~((shall))~~ must be limited to:

(A) Forced air systems with the heating unit located outside the room.

(B) Steam systems of 15 psig or less.

(C) Hot water systems of 130°F or less.

(D) The radiant heating coils and piping for steam or hot water systems ~~((shall))~~ must be protected so that explosives cannot come into contact with them.

(E) Heating ducts ~~((shall))~~ must be installed so that the hot air does not discharge directly on explosives.

(F) The heating system used in a makeup room ~~((shall))~~ must have controls which prevent the ambient room temperature from exceeding 130°F.

(vi) The makeup room ~~((shall))~~ must be equipped with a portable fire extinguisher of at least 2A-20BC rating.

Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

(vii) Ventilation.

(A) The makeup room ~~((shall))~~ must be equipped with a ventilation system capable of maintaining a minimum rate of three air exchanges per hour during all times when explosives are present in the room.

(B) Fans and controls ~~((shall))~~ must be located outside the makeup room and ~~((shall))~~ must be of a type approved for this service.

(C) The lighting circuit control ~~((shall))~~ must also activate the ventilation fan and the ventilation fan ~~((shall))~~ must be operated whenever personnel are in the room.

(D) Exhaust ventilation ~~((shall))~~ must be arranged to discharge into outside air, not into an enclosed structure.

(viii) The floor or exterior walls may be constructed with duct openings for heating and ventilation purposes provided that:

(A) Each duct opening is not greater in volume than seventy-two square inches;

(B) The combined number of duct openings ~~((shall))~~ must not exceed three;

(C) Duct openings ~~((shall))~~ must be located within twelve inches of the floor or ceiling;

(D) The exhaust duct opening ~~((shall))~~ must not be located on the wall above the makeup workbench.

(c) Practices and procedures.

(i) When explosives are present in the makeup room, entry into the makeup room ~~((shall))~~ must be restricted to trained and authorized personnel.

(ii) The access door(s) to the makeup room ~~((shall))~~ must be kept locked or bolted from the inside while employees are assembling explosives.

(iii) The entire makeup room ~~((shall))~~ must be kept clean, orderly, and free of burnable rubbish.

(iv) Brooms and other cleaning utensils ~~((shall))~~ must not have any spark-producing metal parts if used when explosives are present.

(v) Sweepings and empty explosives containers ~~((shall))~~ must be disposed of as recommended by the explosives supplier.

(vi) Repair activities which utilize spark-producing tools ~~((shall))~~ must not be conducted on any part of the makeup room while explosives are present.

(d) Storage of explosives.

(i) A makeup room ~~((shall))~~ must not be used for the unattended storage of 1.1 explosives.

(ii) A makeup room which meets all requirements of this chapter may contain a Type 3 storage facility, for one thousand or less blasting caps.

(iii) A Type 3 storage facility ~~((shall))~~ must be constructed according to the requirements in WAC 296-52-70030 through 296-52-70040.

(A) A Type 3 storage facility ~~((shall))~~ must be fire resistant and theft resistant. It does not need to be bullet resistant and weather resistant if the locked makeup room provides protection from weather and bullet penetration.

(B) Sides, bottoms, and covers ~~((shall))~~ must be constructed of not less than number twelve gauge metal and lined with a nonsparking material.

(C) Hinges and hasps ~~((shall))~~ must be attached so that they cannot be removed from the outside.

(D) One steel padlock having at least five tumblers and a case-hardened shackle of at least three-eighths inch diameter is sufficient for locking purposes. The lock and hasp is not required to be equipped with a steel hood.

(e) Location.

(i) The makeup room ~~((shall))~~ must be located in accordance with the American Quantity and Distance Separation Tables as adopted in chapter 70.74 RCW, Washington State Explosives Act and this chapter except under conditions as indicated in this section.

(ii) Where locating the makeup room in accordance with the quantity and distance separation table is impractical because of bad weather accessibility, rough terrain, or space availability:

(A) Upon application the department will issue a variance enabling location of the makeup room, by mutual agreement, at the safest possible location within the limitation of the individual base area.

(B) The safest possible location will be the location most isolated from assembly areas and buildings that are inhabited with application of additional protection measures such as:

(I) Berming.

(II) Locating natural obstructions or buildings that are not inhabited between the makeup room and assembly areas and buildings that are inhabited.

(III) Limitations on the total quantity of explosives in the makeup room at any one time.

(iii) Makeup rooms designed to hold the boxes of explosives awaiting makeup and the madeup explosives in avalanche control packs awaiting distribution may be located using the total quantity of explosives allowed at the makeup table at any one time as the referenced quantity of explosives provided.

(A) The makeup room is located in accordance with the American Quantity and Distance Separation Tables as adopted in chapter 70.74 RCW, Washington State Explosives Act and this chapter for the referenced quantity of explosives at the makeup table.

(I) This separation ~~((shall))~~ must apply only to human proximity to the makeup room and only at such time as there are explosives in the makeup room.

(II) When the makeup room does not contain explosives the separation tables ~~((shall))~~ must not apply.

(B) The concrete walls of the room are designed to withstand the explosion of the total amount of the referenced explosives.

(I) The concrete walls must be constructed in accordance with specifications designed and certified by a licensed engineer; or

(II) The concrete walls must be constructed to the specifications of Department of the Army TM5-1300 "Structures to Resist the Effects of Accidental Explosions" designed to produce walls which will withstand explosion of the referenced quantity explosives.

(C) The boxes of explosives awaiting makeup and the madeup explosives in avalanche control packs awaiting distribution are located behind separate concrete debris barrier walls which will ensure that detonation of these explosives will not occur if the explosives at the makeup table detonate.

(I) The concrete debris barrier wall must be constructed in accordance with specifications designed and certified by a licensed engineer; or

(II) The concrete debris barrier wall must be constructed to the specifications of Department of the Army TM5-1300 "Structures to Resist the Effects of Accidental Explosions" to produce a barrier which will not allow detonation of the explosives awaiting makeup and distribution should the referenced quantity of explosives detonate.

(III) Access from the makeup table to the area behind the concrete debris barrier walls ~~((shall))~~ must not be doored. The concrete debris barrier walls will be designed so that the access way from the makeup table to the area behind the concrete debris barrier wall will deflect debris from an explosive blast by inherent design.

(D) The roof ~~((shall))~~ must be designed so that the resistance to an interior explosive blast will be negligible.

(iv) A full containment makeup room may be located anywhere and must meet the following requirements:

(A) The makeup room must be constructed in accordance with a licensed explosive engineer's approved design.

(B) The total amount of explosives in the room at any time must not exceed the design limit of the room.

(C) The makeup room cannot be used for storage.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-807 Avalanche control blasting. (1) ~~((The employer shall))~~ You must ensure that all members of avalanche control blasting crews are competent ski mountaineers in good physical and mental condition.

(2) Each avalanche control blasting crew or team ~~((shall))~~ must consist of a qualified and licensed blaster and at least one trained assistant.

(3) Untrained personnel may accompany blasting crews for training purposes but ~~((shall))~~ must not participate in actual firing of charges until trained and authorized.

(4) The blaster in charge of each crew or team ~~((shall))~~ must be responsible for all phases of preparation and placement of charges.

(5) Avalanche control blasting should be conducted during daylight hours whenever possible.

(6) Escape route.

(a) The avalanche control crew or team ~~((shall))~~ must preplan the escape route before igniting any charge.

(b) The escape route ~~((shall))~~ must be as safe and fool-proof as possible and ~~((shall))~~ must culminate behind a terrain barrier or at least one hundred feet from the blast site by the time of detonation.

(7) Hand-thrown charges.

(a) A blaster ~~((shall))~~ must only work with one charge at a time.

(b) Before attaching the igniter, the blaster must:

(i) Be at the start of the escape route;

- (ii) Check the runout zone for personnel;
- (iii) Check the blast area for personnel.
- (c) After the blaster attaches and activates the igniter:
 - (i) The blaster ~~((shall))~~ must check to see that the fuse is ignited;
 - (ii) If the fuse did not ignite, no attempt ~~((shall))~~ must be made to relight it. The blaster ~~((shall))~~ must immediately remove the fuse cap from the charge to sidearm it. The fuse cap ~~((shall))~~ must be treated as a misfire and be put in an appropriately safe place separate from all other explosive components. It ~~((shall))~~ must not be approached for at least thirty minutes, after which time it ~~((shall))~~ must be properly disposed of;
 - (iii) The practice of double fusing hand charges ~~((shall))~~ must be allowed. An attempt ~~((shall))~~ must be made to light both fuses. If only one of the two fuses lights, the charge ~~((shall))~~ must be deployed as normal;
 - (iv) As soon as the fuse is ignited, the blaster ~~((shall))~~ must promptly throw the charge into the target area;
 - (v) All personnel ~~((shall))~~ must be in a safe place when the charge detonates.
 - (d) Where hand-thrown charges will slide down the hill on hard frozen snow or ice surface, charges ~~((shall))~~ must be belayed with light cord.
 - (8) Hand charges thrown from ski lifts or trams.
 - (a) The number of charges thrown from ski lifts or trams ~~((shall))~~ must be kept to a minimum.
 - (b) The lift operating crew ~~((shall))~~ must be informed of the blasting plans.
 - (c) The lift crew ~~((shall))~~ must stand by for emergency procedures such as transfer of lift onto auxiliary power, evacuation, etc.
 - (d) The lift crew and the blaster in charge ~~((shall))~~ must be in direct radio contact at all times during the blasting operations.
 - (e) Only the avalanche control blasting crew and the essential lift operating personnel ~~((shall))~~ must be on a lift or tram during blasting operations.
 - (f) The avalanche control blasting crew ~~((shall))~~ must be traveling up slope when a charge is thrown.
 - (g) A charge ~~((shall))~~ must always be thrown down slope and to the side, away from towers, haulropes and other equipment or facilities.
 - (h) The minimum distance from the blast target to the closest point of the lift ~~((shall))~~ must be sixty feet.
 - (i) Hand charges ~~((shall))~~ must not exceed 4.5 pounds of TNT equivalent.
 - (j) Fuses ~~((shall))~~ must be timed and cut to such length that all personnel on the lift will have moved a minimum of three hundred feet from the blast target by the time of detonation.
 - (k) Precautions ~~((shall))~~ must be taken to avoid tossing charges into any of the lift equipment, moving chairs, cables, towers, etc.
 - (9) Aerial avalanche control blasting.
 - (a) Blasting from aircraft ~~((shall))~~ will require a written program approved by the Federal Aviation Administration and the director, or designee of the department of labor and industries.

(b) A written program ~~((shall))~~ must include the following:

- (i) Written procedures to be followed including provisions for safety in the avalanche runout zone and emergency rescue plans.
- (ii) Hand charge makeup and handling procedures.
- (iii) The type of explosives to be used.
- (iv) The qualifications of all avalanche control personnel involved in aerial blasting must meet the requirements of WAC 296-52-64030.
- (v) The specific locations where aircraft blasting is to take place.
- (c) An aerial avalanche control team ~~((shall))~~ must be established consisting of (at minimum) a pilot, a blaster in charge and an observer/controller.
- (d) Blasting from an aircraft ~~((shall))~~ must require the blaster in charge to be a licensed avalanche blaster with an endorsement for aerial blasting. The blaster in charge will be on board during each aerial blasting mission.

Note: Blasting from aircraft should only be used when it is determined that conventional methods are not the safest means to mitigate the existing avalanche hazard.

(10) Avalauncher requirements.

- (a) Management ~~((shall))~~ must develop a written training program and ensure that every person who will be authorized to work on an avalauncher firing team is thoroughly trained. Training ~~((shall))~~ must include:
 - (i) All operating instructions;
 - (ii) Safety precautions;
 - (iii) Emergency procedures;
 - (iv) Securing requirements for the equipment.
- (b) ~~((Each employer shall))~~ You must have a list of authorized operators listed on a posted operator's list.
- (c) Only trained and authorized personnel ~~((shall))~~ must be permitted to point and fire an avalauncher with explosive rounds.
- (d) During firing of explosive loaded rounds, the firing team ~~((shall))~~ must consist of two qualified operators and not more than one adequately trained helper.
- (e) Operators must have a current state blasting license.
- (f) Each operator ~~((shall))~~ must individually check the elevation, pointing and pressure settings of the gun before each shot is fired.
- (g) Operators ~~((shall))~~ must attempt to determine and record whether or not each round which is fired actually explodes on contact.
- (h) The approximate location of all known misfired explosives (or duds) ~~((shall))~~ must be recorded.
- (i) Initial shooting coordinates for each avalauncher mount ~~((shall))~~ must be made during periods of good visibility.
- (j) Testing ~~((shall))~~ must include test firing in various wind conditions.
- (k) The correct coordinates for the various conditions encountered ~~((shall))~~ must be carefully recorded.
- (l) When spotter personnel are used in the target area, shooting ~~((shall))~~ must be conducted with nonexplosive projectiles.

(m) Firing of explosive avalauncher rounds ~~((shall))~~ must only be conducted when personnel are not in the target area.

(n) The avalauncher apparatus ~~((shall))~~ must be stored in a nonfunctional condition when not in use. This ~~((shall))~~ must be accomplished by:

(i) Locking out the firing mechanism or gas source in accordance with the lockout requirements of this chapter; or

(ii) Disassembly of functional components rendering the gun inoperable and separate storage of components removed; or

(iii) Removal of the entire gun to secure storage.

(o) With established avalauncher mounts, each autumn when reinstalling guns, the following procedures ~~((shall))~~ must be accomplished before the gun is considered operable:

(i) All components ~~((shall))~~ must be carefully inspected by qualified personnel;

(ii) After assembly and installation, the gun ~~((shall))~~ must first be test fired using a nonexplosive projectile;

(iii) The established firing coordinates ~~((shall))~~ must be checked by test firing.

(11) Cornice control requirements.

(a) Cornice buildup hazards ~~((shall))~~ must be evaluated regularly by qualified personnel, particularly after heavy snowfall periods which are accompanied by high wind or other snow transport weather conditions.

(b) Cornice hazards ~~((shall))~~ must be controlled whenever the buildup appears to offer potential hazard to areas accessible by personnel.

(c) The control team ~~((shall))~~ must establish the tension breakline of the cornice roof as accurately as conditions permit before starting any other control work on the cornice.

(d) The tension breakline ~~((shall))~~ must be marked when necessary.

(e) Small lightly packed cornices may be kicked off with a ski, ski pole, or shovel by an unbelayed control team member if the ridgeline can be clearly established and all work can be done from the safe side of the ridgeline.

(f) When working along an anticipated cornice breakline, control team members ~~((shall))~~ must retreat back from the breakline to change work positions rather than traverse along the breakline.

(g) The following factors ~~((shall))~~ must be given careful consideration before commencing control activities on any relatively larger cornice:

(i) The older and larger a cornice becomes, the more densely it compacts. Densely packed cornices release into larger blocks offering a higher level of danger to an extended runout zone. The control team leader ~~((shall))~~ must therefore take highest level of precautions to assure that the runout zone is clear of personnel;

(ii) Larger size cornices result in increased suspended weight and leverage which may cause the breakline release fracture to occur behind the actual ridgeline. The actual ridgeline may also be obscured by the simple mass of larger cornices. Control team members ~~((shall))~~ must stay off the cornice roof and must be protected by a secure belay when working near the suspected breakline;

(iii) All large cornices ~~((shall))~~ must be released by explosives. Explosives ~~((shall))~~ must be transported, made up and fired in accordance with the following requirements:

(A) The ignition system for single hand charge blasts ~~((shall))~~ must be safety fuse and cap or a system approved by the department.

(B) Detonating cord or shock tube ~~((shall))~~ must be used to connect multiple charge blasts.

(C) When detonating cord is used, one end ~~((shall))~~ must be securely anchored where premature cornice collapse will not disturb the anchor. The fuse and cap ~~((shall))~~ must be attached to the free end of the detonating cord after all charges are connected to the detonating cord.

(D) Safety fuse length ~~((shall))~~ must be sufficient to permit adequate escapement time for all personnel from the area influenced by the blast. Safety fuse ~~((shall))~~ must be not less than three feet long, approximately two minutes and twenty seconds, in all instances.

(h) Cornice control work on large cornices ~~((shall))~~ must be conducted during daylight hours and preferably during favorable weather conditions. As a minimum, clear visibility ~~((shall))~~ must exist across the full length of any cornice which the control team is attempting to release.

(12) Belaying practices.

(a) Belay rope ~~((shall))~~ must be standard 11 mm mountaineering rope or the equivalent.

(i) Belay rope ~~((shall))~~ must be inspected at not less than thirty-day intervals and maintained in excellent condition.

(ii) Defective belay rope ~~((shall))~~ must not be used for belaying purposes.

(b) Adequate trees or other suitable natural belay anchors ~~((shall))~~ must be used in preference to a human belay anchor when such natural anchors are available.

(c) The belay anchor position ~~((shall))~~ must be as near to ninety degrees from the tension breakline as the terrain conditions will permit.

(d) With either a natural belay anchor or human belay anchor, the belay line ~~((shall))~~ must be tended to keep slack out of the line.

(e) When either the belayed person or belay anchor needs to change position, the belayed person ~~((shall))~~ must retreat back from the cornice to a safe position until the belay anchor is reestablished.

(f) When a human belay anchor is used:

(i) The belay anchor person ~~((shall))~~ must establish the anchor position as far back away from the cornice as conditions permit;

(ii) The anchor person ~~((shall))~~ must remain in a seated position with their legs pointed toward the belayed person until such time as the belayed person has retreated back from the cornice to a position considered to be safe.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-52-809 Retrieving misfired explosives (duds). (1) The following requirements ~~((shall))~~ must apply to all kinds of avalanche control blasting:

(a) Each person who ignites a charge or propels a charged projectile with any kind of apparatus ~~((shall))~~ must note whether or not the charge actually detonates.

(b) A conscientious effort ~~((shall))~~ must be made to promptly retrieve any misfired explosives.

(i) If conditions make it impractical or dangerous to promptly retrieve a misfired explosive, a search ~~((shall))~~ must be conducted as soon as conditions permit.

(ii) Any area which contains a misfired explosive ~~((shall))~~ must be closed to entry to all personnel except the search team until such time as the area has been searched and pronounced safe by the designated search leader.

(c) When searching for a misfired explosive on an uncontrolled avalanche slope (a slope which has not released), the procedures used ~~((shall))~~ must be consistent with good mountaineering practices.

(d) A hand charge misfire ~~((shall))~~ must not be approached for at least thirty minutes.

(e) A hand charge or avalauncher misfired explosive may be blown up with a secondary charge where they are found or may be disarmed at that location by fully trained and qualified personnel.

(f) Military warhead misfired explosives ~~((shall))~~ must not be moved. They ~~((shall))~~ must be blown up where they are found by secondary charges except that trained military personnel may disarm and transport such misfired explosives when approved by the governmental branch having jurisdiction.

(2) Records.

(a) Accurate records ~~((shall))~~ must be maintained for every explosive device which does not detonate.

(b) Misfired explosives records ~~((shall))~~ must include the following information:

(i) The suspected location;

(ii) A description of the misfired explosive;

(iii) The date the misfired explosive was lost;

(iv) The date the misfired explosive was found and disposed of.

(3) Misfired explosive frequency.

(a) Misfired explosive frequency should be maintained below one misfired explosive for every five hundred detonating attempts.

(b) All employers who do not maintain a misfired explosive frequency below one misfired explosive per five hundred detonation attempts ~~((shall))~~ must investigate all aspects of the blasting program and take prompt corrective actions as indicated.

(4) Misfired explosives warning signs.

(a) Requirements for warning signs. Ski area operations which use any form of explosive device for avalanche control ~~((shall))~~ must display warning, information placards and/or signs as found in this chapter, Part H.

(b) Signs ~~((shall))~~ must be posted at readily visible locations and in such a manner as to give both employees and the public ample opportunity to be informed of the potential existence of misfired explosive avalanche charges. Locations may include, but are not limited to:

(i) Ticket sales and lift loading areas;

(ii) Food and beverage service facilities;

(iii) Restrooms and locker rooms;

(iv) Safety bulletin boards;

(v) Along general access routes.

(c) Signs ~~((shall))~~ must be distinctive in appearance from the surrounding background where they are posted.

(d) Signs ~~((shall))~~ must be maintained in legible condition.

(e) Signs ~~((shall))~~ must include the following information:

(i) The word "WARNING" or "DANGER" at the top of the sign in the largest lettering on the sign;

(ii) The words "EXPLOSIVES ON THE MOUNTAIN";

(iii) A colored pictorial illustration which also provides information on dimensions of each type of explosive device used in the area;

(iv) The sign wording ~~((shall))~~ must conclude with specific instructions to be followed by anyone who locates an unexploded explosive device.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-52-60130 Definitions.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-59-001 Foreword. (1) This vertical standard is promulgated in accordance with applicable provisions of the Washington State Administrative Procedure Act, chapter 34.04 RCW, and the Washington Industrial Safety and Health Act, chapter 49.17 RCW.

(2) The requirements of this chapter ~~((shall))~~ must be applied through the department of labor and industries, division of industrial safety and health, in accordance with administrative procedures provided for in chapter 49.17 RCW, and chapters 296-27, 296-360, 296-800, and 296-900 WAC.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-59-003 Scope and application. (1) The rules of this chapter are applicable to all persons, firms, corporations, or others engaged in the operation of organized ski areas and facilities within the jurisdiction of the department of labor and industries. These rules ~~((shall))~~ must augment the WAC general horizontal standards, specifically referenced WAC vertical standards, and specifically referenced national standards or manuals.

(2) In the event that specific provisions of this chapter may conflict with any other WAC chapter, national standard, or manual, the provisions of this chapter ~~((shall))~~ must prevail.

(3) The rules of this chapter ~~((shall))~~ must not be applied to rescue crews during the time that rescue procedures are in process provided that reasonably prudent methods, equipment, and processes are employed. Personnel directly engaged in rescue operations ~~((shall))~~ must not be subjected to the immediate restraint provisions of RCW 49.17.130.

(4) Nothing herein contained ~~((shall))~~ must prevent the use of existing ski lift and tow equipment during its lifetime unless specific requirements of this chapter require retrofitting or modifications, provided that it ~~((shall))~~ must be in conformance with applicable national or state code requirements at the time of manufacture and be maintained in good condition to conform with safety factors for the materials and method of manufacture used.

(5) Severability. If any provision of this chapter, or its application to any person, firm, corporation, or circumstance is held invalid under state (RCW) or national (Public Law) laws, the remainder of this chapter, or the application of the provision to other persons or circumstances is not affected.

(6) Variance and procedure. Recognizing that conditions may exist which do not exactly meet the literal requirements of this or other applicable Title 296 WAC standards, pursuant to RCW 49.17.080 and 49.17.090, the director of the department of labor and industries or his/her authorized representative may permit a variance when other means of providing an equivalent measure of protection are afforded. The specific requirements and procedures for variance application are contained in chapter 296-900 WAC, Administrative rules. Application forms may be obtained from the assistant director for safety and health or from regional departmental offices.

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

WAC 296-59-005 Incorporation of other standards.

(1) Lifts and tows ~~((shall))~~ must be designed, installed, operated, and maintained in accordance with American National Standard Institute (ANSI) B77.1-1982, Standards for Passenger Tramways—Aerial Tramways and Lifts, Surface Lifts, and Tows—Safety Requirements.

(2) Future revised editions of ANSI B77.1-1982 may be used for new installations or major modifications of existing installations, as recommended or approved by the equipment manufacturer or a qualified design engineer, except that, where specific provisions exist, variances ~~((shall))~~ must be requested from the department.

(3) Reserved.

(4) The use of military type weapons for avalanche control ~~((shall))~~ must comply with all requirements of the United States government and/or the military branch having jurisdiction. Compliance ~~((shall))~~ must include qualification of employees, security requirements, and storage and handling of ammunition.

(5) ~~((The employer shall))~~ You must develop and maintain a hazard communication program as required by WAC 296-901-140, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(6) When employees perform activities such as construction work or logging, the WAC chapter governing the specific activity ~~((shall))~~ must apply, e.g., chapter 296-155 or 296-54 WAC, et seq.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-59-007 Definitions. ~~(())~~ Act ~~((—means))~~. The Washington Industrial Safety and Health Act of 1973, RCW 49.17.010 et seq.

~~(())~~ Aerial work platform ~~((—means))~~. Any form of work platform, work chair, or workbasket designed to lift or carry workmen to an elevated work position.

~~(())~~ ANSI ~~((—means))~~. The American National Standards Institute.

~~(())~~ Approved ~~((—means))~~. Approved by the director of the department of labor and industries except where this code requires approval by another specific body or jurisdiction authority.

~~(())~~ ASME ~~((—means))~~. The American Society of Mechanical Engineers.

~~(())~~ Authorized person ~~((—means))~~. A person approved or assigned by the employer to perform specific duties or to be at specific restricted locations.

~~(())~~ Avalanche ~~((—means))~~. The sliding or falling of a large amount of snow down a steep slope which has a destructive force due to its mass.

~~(())~~ Belay ~~((—means))~~. To provide an anchor for a safety line when a person is working in a position exposed to falling or sliding, the mountaineering term.

~~(())~~ Designated ~~((—means))~~. ~~Appointed or authorized by the highest management authority available at the site.~~

~~(())~~ Department ~~((—means))~~. The department of labor and industries, division of industrial safety and health, unless the context clearly indicates otherwise.

~~(())~~ Designated. ~~Appointed or authorized by the highest management authority available at the site.~~

~~(())~~ Director ~~((—means))~~. The director of the department of labor and industries or his/her designated representative.

~~(())~~ Hazard ~~((—means))~~. That condition, potential or inherent, which might cause injury, death, or occupational disease.

~~(())~~ Hazardous material system. Any system within the following classifications:

(a) Flammable or explosive. Any system containing materials which are hazardous because they are easily ignited and create a fire or explosion hazard, defined by NFPA as Class I liquids;

(b) Chemically active or toxic. Any system containing material which offers corrosion or toxic hazard in itself or can be productive of harmful gases upon release, defined by NFPA 704M as Class 3 and 4 materials;

(c) Thermally hazardous. Any system above 130°F which exposes persons to potential thermal burns;

(d) Pressurized. Any gaseous system above two hundred psig or liquid system above five hundred psig.

~~(())~~ Lift certificate to operate ~~((—means))~~. An operating certificate issued by the Washington state parks and recreation commission pursuant to chapter 70.88 RCW subsequent to annual inspections as required by chapter 352-44 WAC.

~~(())~~ Must. Indicates a mandatory requirement.

~~(())~~ N.E.C. ~~((—means))~~. The National Electric Code, as published by either the National Fire Protection Association or ANSI.

(~~u~~) Occupied building (~~"means"~~). A building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble.

(~~u~~) Piping system. Any fixed piping, either rigid pipe or flexible hose, including all fittings and valves, in either permanent or temporary application.

Qualified (~~"means"~~). One who, by possession of a recognized degree, certificate, license, or professional standing, has successfully demonstrated the personal ability to solve or resolve problems relating to the subject matter, the work, or the project.

(~~u~~) RCW (~~"means"~~). The Revised Code of Washington, legislative law.

(~~u~~) ROPS (~~"means"~~). Rollover protective structure.

(~~u~~) S.A.E. (~~"means"~~). The society of automotive engineers.

(~~u~~) Safety factor (~~"means"~~). The ratio of ultimate breaking strength of any member or piece of material or equipment to the actual working stress or safe load when in use.

(~~"Shall"~~ indicates a mandatory requirement.

~~u~~) Should (~~""~~). Indicates a recommended practice.

(~~u~~) WAC (~~"means"~~). The Washington Administrative Code.

(~~u~~) WISHA (~~"means"~~). Washington industrial safety and health administration.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-59-010 Safe place standards. The safe place requirements of the safety and health core rules, WAC 296-800-110, (~~shall~~) must be applicable within the scope of chapter 296-59 WAC.

AMENDATORY SECTION (Amending WSR 06-19-074, filed 9/19/06, effective 12/1/06)

WAC 296-59-015 General requirements. (1) The use of any machinery, tool, material, or equipment which is not in compliance with any applicable requirement of this chapter is prohibited. Such machine, tool, material, or equipment (~~shall~~) must either be identified as unsafe by tagging or locking the controls to render them inoperable or (~~shall~~) must be physically removed from its place of operation.

(2) (~~The employer shall~~) You must permit only those employees qualified by training or experience to operate equipment and machinery.

(3) Employees (~~shall~~) must use safeguards provided for their protection.

(4) Loose or ragged clothing, scarfs, or ties (~~shall~~) must not be worn while working around moving machinery.

(5) Workers should not be assigned or permitted to occupy work locations directly under other workers. When such practice is unavoidable, all parties (~~shall~~) must be made aware of the potential hazard and adequate protective measures (~~shall~~) must be taken. When adequate protective measures are not available, one party (~~shall~~) must be moved to eliminate the potential exposure.

(6) Employees (~~shall~~) must report to their employers the existence of any unsafe equipment or method, or any other hazard which, to their knowledge, is unsafe. Where such unsafe equipment or method or other hazard exists in violation of this chapter it (~~shall~~) must be corrected.

(7) Housekeeping.

(a) All places of employment (~~shall~~) must be kept clean to the extent that the nature of the work allows.

(b) The floor of every workroom (~~shall~~) must be maintained so far as practicable in a dry condition. Where wet processes are used, drainage (~~shall~~) must be maintained. Where necessary or appropriate, waterproof footwear (~~shall~~) must be worn.

(c) To facilitate cleaning, every floor, working place, and passageway (~~shall~~) must be kept free from protruding nails, splinters, loose boards, unnecessary holes and openings or other tripping hazards.

(d) Cleaning and sweeping (~~shall~~) must be done in such a manner as to minimize the contamination of the air with dust and so far as is practical, (~~shall~~) be done outside of working hours.

(8) Requirements for warning signs. Ski area operations which use any form of explosive device for avalanche control (~~shall~~) must display warning, information placards and/or signs as found in chapter 296-52 WAC, Part G.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-59-020 Management's responsibility. The "safe work environment" section of the safety and health core rules, WAC 296-800-110, (~~shall~~) will be applicable within the scope of chapter 296-59 WAC.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-59-025 Employee's responsibility. The "employee responsibilities" section of the safety and health core rules, WAC 296-800-120, (~~shall~~) will be applicable within the scope of chapter 296-59 WAC.

AMENDATORY SECTION (Amending WSR 88-14-108, filed 7/6/88)

WAC 296-59-027 Work activities which include skiing. Management (~~shall~~) must develop a written safety program for all employees whose job duties include skiing. The program (~~shall~~) must include but is not limited to the following:

(1) The skiing ability and physical condition of individuals (~~shall~~) must be considered when determining individual job assignments;

(2) The ski equipment used (~~shall~~) must be appropriate for the individual when performing any given job assignment;

(3) The condition of all ski equipment (~~shall~~) must be checked by a qualified individual at the beginning of each ski season;

(4) Employees (~~shall~~) must be instructed not to use ski equipment until it has been checked and approved;

(5) Employees ~~((shall))~~ must be instructed to ski within their ability and in control at all times;

(6) Employees ~~((shall))~~ must be required to check all ski equipment, including adjustments, before starting work each day;

(7) Employees ~~((shall))~~ must be instructed not to use ski equipment which is defective or out of adjustment.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-59-030 Safety bulletin board. The "safety bulletin board" requirements of the safety and health core rules, WAC 296-800-190, ~~((shall))~~ will be applicable within the scope of chapter 296-59 WAC.

AMENDATORY SECTION (Amending WSR 09-05-071, filed 2/17/09, effective 4/1/09)

WAC 296-59-050 Personal protective equipment, general requirements. (1) Application.

(a) Protective equipment, including personal protective equipment for eyes, face, head, and extremities, protective clothing, respiratory devices, and protective shields and barriers, ~~((shall))~~ must be provided at no cost to the employee, used, and maintained in a sanitary and reliable condition wherever it is indicated by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation, or physical contact.

(b) Employee-owned equipment. Where employees provide their own protective equipment, ~~((the employer shall))~~ you must be responsible to ~~((assure))~~ ensure its adequacy, including proper maintenance, and sanitation of such equipment.

(c) Design, construction, testing, and use of personal protective equipment ~~((shall))~~ must comply with the requirements of the safety and health core rules, WAC 296-800-160; the Occupational health standards—Safety standards for carcinogens, chapter 296-62 WAC; or the currently applicable ANSI standard.

(2) Eye and face protection. Eye and face protective equipment ~~((shall))~~ must be provided and worn where there is exposure in the work process or environment to hazard of injury, which can be prevented by such equipment.

(3) Occupational head protection. Employees working in areas where there is a possible danger of head injury from impact, or from falling or flying objects, or from electrical shock and burns, ~~((shall))~~ must be protected by protective helmets, i.e., a lift operator would not be required to use a hardhat while operating the lift. However, if that same person is assisting with maintenance operations and is working under a tower where overhead work is being done, that operator would now be required to wear an approved helmet.

(a) Helmets for the protection of employees against impact and/or penetration of falling and flying objects ~~((shall))~~ must meet the specifications contained in American National Standards Institute, Z89.1-1986, Safety Requirements for Industrial Head Protection.

(b) Helmets for the head protection of employees exposed to high voltage electrical shock and burns ~~((shall))~~ must meet the specifications contained in American National Standards Institute, Z89.2-1971, Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class B.

(c) Approved head protection ~~((shall))~~ must be worn by operators of snowmobiles and other mobile oversnow equipment which is not equipped with a rigid metal operator's cab.

(4) Occupational foot protection.

(a) Substantial footwear appropriate for the work conditions encountered ~~((shall))~~ must be worn by all employees.

(b) Where the job assignment includes exposure to slipping hazards, soles and heels of footwear ~~((shall))~~ must be of such material and design as to reduce the hazard of slipping.

(5) Safety belts, lifelines, lanyards, and nets.

(a) Safety belts, lifelines, and lanyards which meet the requirements of ANSI A10.14 ~~((shall))~~ must be provided and used whenever employees are working in locations which expose them to a fall of more than ten feet. The particular work location and application ~~((shall))~~ must dictate which type of belt or harness and length of lanyard is used.

(b) Lifelines ~~((shall))~~ must be secured to an anchorage or structural member capable of supporting a minimum dead weight of five thousand four hundred pounds.

(c) Lifelines used on rock scaling applications or in areas where the lifeline may be subjected to cutting or abrasion ~~((shall))~~ must be a minimum of seven-eighths inch wire core manila rope or equivalent. For all other lifeline applications, three-fourths inch manila rope or equivalent with a minimum break strength of five thousand four hundred pounds may be used.

(d) Each safety belt lanyard ~~((shall))~~ must be a minimum of one-half inch nylon, or equivalent, with a minimum of five thousand four hundred pounds breaking strength.

(e) Employees will not be required to wear a safety belt and lanyard while riding on a standard lift chair while seated in the normal riding position.

(f) Safety nets meeting the requirements of ANSI A10.11 ~~((shall))~~ must be used when other acceptable forms of fall protection are not useable. When used, safety nets ~~((shall))~~ must extend a minimum of eight feet beyond the edge offering exposure, ~~((shall))~~ must be hung with sufficient clearance to prevent user's contact with surfaces or objects below, and ~~((shall))~~ must not be more than twenty-five feet below the fall exposure edge.

AMENDATORY SECTION (Amending WSR 88-14-108, filed 7/6/88)

WAC 296-59-055 Lockout requirements. (1) ~~((Each employer shall))~~ You must develop a formal written policy and procedure for lockout requirements. The policy ~~((shall))~~ must embody the principles of subsection (2) of this section and ~~((shall))~~ must clearly state that the procedures must be applied in all instances.

(a) The lockout policy ~~((shall))~~ must be posted on all required employee bulletin boards.

(b) The lockout policy and procedures ~~((shall))~~ must be made a part of new employee orientation and employee training programs.

(c) Supervisors and crew leadpersons ~~((shall))~~ must assure compliance with the published policy and procedures in all instances.

(2) Whenever the unexpected start up of machinery, the energizing of electrical circuits, the flow of material in piping systems, or the removal of guards would endanger workers, such exposure ~~((shall))~~ must be prevented by deactivating and locking out the controls as required by this section.

(3) Equipment requirements.

(a) ~~((The employer shall))~~ You must provide and each employee ~~((shall))~~ must use as many padlocks, tags, chains, or devices as are necessary to implement these requirements.

(b) Provisions ~~((shall))~~ must be made whereby the source of power or exposure can be locked out in accordance with the requirements of this section.

(c) On electrically powered equipment, "stop/start" control switches ~~((shall))~~ must not be used as lockout switches. Lockout switches must be the primary circuit disconnects and must adequately separate both the power source and any auxiliary power unit from the prime mover so that accidental start up of the equipment being locked out is precluded.

(d) Keyed-alike locks, which all open with identical keys, ~~((shall))~~ must not be issued as personal lockout locks.

(4) Training requirements.

(a) Each person who will be given authority to implement these requirements ~~((shall))~~ must first be thoroughly trained in the requirements and procedures.

(b) Before being given authority to deactivate and lockout a particular system or piece of equipment, authorized personnel ~~((shall))~~ must be made fully aware of all power sources and/or material entry sources which may offer exposure.

(c) Checklists ~~((shall))~~ must be used to implement effective lockout procedures for complex systems or equipment.

(i) Complex is identified as those systems or equipment which require the locking out of four or more controls to assure isolation or which have controls remote from the immediate work area.

(ii) Checklists ~~((shall))~~ must identify all controls necessary to achieve isolation at the intended worksite(s).

(iii) Checklists ~~((shall))~~ must provide a space after each listed control to be used for the identity of the person(s) who performed the lockout and required postlockout tests of each control.

(iv) Checklists ~~((shall))~~ must be prepared by qualified personnel and approved by the responsible area supervisor before each use.

(5) Control procedure.

(a) Each person who could be exposed to the hazard ~~((shall))~~ must apply a personal padlock on each control mechanism. Padlocks ~~((shall))~~ must be applied in such a manner as to physically block the controls from being moved into the operating position. Each lock ~~((shall))~~ must be personally identified or an information tag identifying the owner ~~((shall))~~ must be attached to the lock.

(b) Padlocks used in lockout procedures may only be removed by the person identified on the lock, except, when it

is positively determined that the owner/user of the lock has left the premises without removing a lock, the job supervisor may remove the lock in accordance with a specific procedure formulated by the local plant labor management safety committee or approved by the department.

(6) Testing after lockout or tagout. After tagging or locking out equipment, a test ~~((shall))~~ must be conducted to ascertain that the equipment has been made inoperative or the flow of material has been positively stopped. Precautions ~~((shall))~~ must be taken to ascertain that persons will not be subjected to any hazard while conducting the test if the power source or flow of material is not shut off.

(7) Temporary or alternate power to be avoided. Whenever possible, temporary or alternate sources of power to the equipment being worked on ~~((shall))~~ must be avoided. If the use of such power is necessary, all affected employees ~~((shall))~~ must be informed and the source of temporary or alternate power ~~((shall))~~ must be identified.

(8) Where tags or signs are required to implement the lockout and control procedures, the tag and attachment device ~~((shall))~~ must be constructed of such material that it will not be likely to deteriorate in the environment that it will be subjected to.

(9) Provisional exception. Electrical lighting and instrument circuits of two hundred forty volts or less on single phase systems or two hundred seventy-seven volts on three-phase systems may be exempted from the lockout requirements of subsection (5)(a) of this section provided that:

(a) An information tag meeting the requirements of subsection (8) of this section is used in lieu of a padlock.

(b) The information tag ~~((shall))~~ must be placed on the switch or switch cover handle in such a manner as to easily identify the deactivated switchgear.

(10) Deactivating piping systems.

(a) Hazardous material systems are defined as:

(i) Gaseous systems that are operated at more than two hundred psig;

(ii) Systems containing any liquid at more than five hundred psig;

(iii) Systems containing any material at more than 130°F;

(iv) Systems containing material which is chemically hazardous as defined by NFPA 704 M Class 3 and 4; and

(v) Systems containing material classified as flammable or explosive as defined in NFPA Class I.

(b) Lockout of piping systems ~~((shall))~~ must provide isolation to the worksite, including backflow where such potential exists and where the system is classified as a hazardous material system. The required method ~~((shall))~~ must be applied based on the content of the system as specified below:

(i) Nonhazardous systems ~~((shall))~~ must be deactivated by locking out either the pump or a single valve.

(ii) Hazardous material systems ~~((shall))~~ must be deactivated by one of the following methods:

(A) Locking out both the pump and one valve between the pump and the worksite;

(B) Locking out two valves between the hazard source and the worksite;

(C) Installing and locking out a blank flange between the hazard source and worksite.

Exception: Aerial tramways and lifts, surface lifts and tows. It is recognized that some inspection, testing, running adjustments, and maintenance tasks cannot be accomplished on this equipment while using standard lockout procedures, particularly when using a work platform suspended from the haulrope. Management of each ski area shall therefore develop a specific written procedure to be used in any instance where any potentially exposed personnel cannot personally lock the controls. The procedure for each area shall meet the following minimum requirements:

(I) The controls ~~((shall))~~ must be attended by a qualified operator at all times when personnel are in potentially exposed work positions and the controls are not padlocked out.

(II) Direct communication capability between the control operator and remote work crew ~~((shall))~~ must be maintained at all times.

(III) All personnel involved ~~((shall))~~ must be thoroughly trained in the exact procedures to be followed.

(IV) Extension tools which minimize personnel exposure ~~((shall))~~ must be used where possible.

(V) The equipment ~~((shall))~~ must be operated at the slowest speed possible consistent with the task at hand.

(VI) This exception ~~((shall))~~ must not be used by more than one workcrew at more than one remote location on any single piece of equipment or system.

(VII) This exception is limited to work on the haulrope, towers, and replacing bullwheel liners. For all other work on the bullwheels or drive operations, the master disconnect ~~((shall))~~ must be deactivated and locked out.

Note: See Appendix 1 for illustrative example.

AMENDATORY SECTION (Amending WSR 95-04-007, filed 1/18/95, effective 3/1/95)

WAC 296-59-060 Vessel or confined area requirements. The requirements of WAC 296-62-145 through 296-62-14529, general occupational health standards for permit - Required confined spaces, ~~((shall))~~ will be applicable within the scope of chapter 296-59 WAC.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-59-065 Fire protection and ignition sources. The requirements of WAC 296-24-585 and 296-800-300, et seq., relating to fire protection requirements, ~~((shall))~~ will be applicable within the scope of chapter 296-59 WAC.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-59-070 Illumination. (1) Sufficient illumination required. All areas ~~((shall))~~ must be sufficiently illuminated in order that persons in the area can safely perform their assigned duties. The recommended levels of illumination specified in the safety and health core rules, WAC 296-

800-210, ~~((shall))~~ must be followed. When areas are not specifically referred to in chapter 296-800 WAC and the adequacy of illumination for the area or task performed is questionable, a determination of the amount of illumination needed may be made by the division of industrial safety and health.

(2) Emergency or secondary lighting system required.

(a) There ~~((shall))~~ must be an emergency or secondary lighting system which can be actuated immediately upon failure of the normal power supply system. The emergency or secondary lighting system ~~((shall))~~ must provide illumination in the following areas:

(i) Wherever it is necessary for workers to remain at their machine or station to shut down equipment in case of power failure;

(ii) At stairways and passageways or aiseways used by workers as an emergency exit in case of power failure;

(iii) In all plant first-aid and/or medical facilities;

(iv) In emergency power and control room, i.e., in emergency generator rooms unless arranged to start automatically in the event of power failure, or on ski lift motor drive rooms where it would be necessary for employees to switch on the emergency drive system during night skiing.

(b) Emergency lighting facilities ~~((shall))~~ must be checked at least every thirty days for mechanical defects. Defective equipment ~~((shall))~~ must be given priority for repair schedule.

(3) Extension cord type lights. All extension cord type lights ~~((shall))~~ must be provided with proper guards.

AMENDATORY SECTION (Amending WSR 88-14-108, filed 7/6/88)

WAC 296-59-075 Electrical equipment and distribution. (1) National Electrical Code to prevail. All electrical installations and electrical utilization equipment ~~((shall))~~ must comply with the National Electrical Code requirements.

Exception: In instances where (N.E.C.) conflicts with ANSI B77.1 with respect to tramways, surface lifts, or tows, ANSI B77.1 shall prevail.

(2) Authorized personnel to do electrical work. Only those persons who are qualified to do the work assigned and are authorized by ~~((the employer shall))~~ you, must be allowed to perform electrical work on any electrical equipment or wiring installations.

(3) High voltage areas to be guarded. Motor rooms, switch panel rooms, or other areas where persons may come in contact with high voltages ~~((shall))~~ must be fenced off or be enclosed in a separate area. The gate, door, or access to such area ~~((shall))~~ must be posted with a notice stating that only authorized persons are allowed in the area.

(4) Control panels. In areas where mobile equipment operates, floor stand panels ~~((shall))~~ must be protected from being struck by moving equipment. Start or run handles and buttons ~~((shall))~~ must be protected from accidental actuation.

(5) Switches or control devices. Switches, circuit breakers, or other control devices ~~((shall))~~ must be ~~((so))~~ so located so that they are readily accessible for activation or deactivation and ~~((shall))~~ must be marked to indicate their function or machine which they control. The positions of ON and OFF

~~((shall))~~ must be marked or indicated and provision ~~((shall))~~ must be made for locking out the circuit.

(6) Starting requirements for electrically driven equipment after power failure. Electrically driven equipment ~~((shall))~~ must be ~~((so))~~ designed so that it will not automatically start upon restoration of power after a power failure if it will create a hazard to personnel.

(7) Posting equipment automatically activated or remotely controlled. Equipment which is automatically activated or remotely controlled ~~((shall))~~ must be posted, warning persons that machine may start automatically if it will create a hazard to personnel.

AMENDATORY SECTION (Amending WSR 88-14-108, filed 7/6/88)

WAC 296-59-080 Installation, inspection, and maintenance of pipes, piping systems, and hoses. (1) ~~((Definitions applicable to this section:~~

~~((i))~~ "Hazardous material system" is any system within the following classifications:

~~((i))~~ "Flammable or explosive" any system containing materials which are hazardous because they are easily ignited and create a fire or explosion hazard, defined by NFPA as Class I liquids;

~~((ii))~~ "Chemically active or toxic" any system containing material which offers corrosion or toxic hazard in itself or can be productive of harmful gases upon release, defined by NFPA 704M as Class 3 and 4 materials;

~~((iii))~~ "Thermally hazardous" any system above 130°F which exposes persons to potential thermal burns;

~~((iv))~~ "Pressurized" any gaseous system above two hundred psig or liquid system above five hundred psig.

~~((b))~~ "Piping system" any fixed piping, either rigid pipe or flexible hose, including all fittings and valves, in either permanent or temporary application.

~~((2))~~ Design and installation. All new piping systems intended to be used in hazardous material service ~~((shall))~~ must be designed and installed in accordance with applicable provisions of the ASME Code for Pressure Piping or in accordance with applicable provisions of ANSI B31.1 through B31.8. The referenced edition in effect at the time of installation ~~((shall))~~ must be utilized.

Note: Both referenced standard have identical requirements.

~~((3))~~ (2) Inspection and maintenance.

(a) Management ~~((shall))~~ must develop a formal program of inspections for all hazardous material piping systems. The program ~~((shall))~~ must be based on sound maintenance engineering principles and ~~((shall))~~ must demonstrate due consideration for the manufacturing specifications of the pipe, hose, valves, and fittings, the ambient environment of the installation and the corrosive or abrasive effect of the material handled within the system.

(b) Type and frequency of tests and/or inspections and selection of inspection sites ~~((shall))~~ must be adequate to give indications that minimum safe design operating tolerances are maintained. The tests may include visual and nondestructive methods.

(c) ~~((All employers shall submit their))~~ You must submit your formal program of initial and ongoing inspections to the

department for approval within one year after the effective date of this requirement.

(d) All existing hazardous material systems ~~((shall))~~ must be inspected to the criteria of this section prior to two years after effective date, or in accordance with a schedule approved by the department.

~~((4))~~ (3) Inspection records.

(a) Results of inspections and/or tests ~~((shall))~~ must be maintained as a record for each system.

(b) Past records may be discarded provided the current inspection report and the immediate preceding two reports are maintained.

(c) When a system is replaced, a new record ~~((shall))~~ must be established and all past records may be discarded.

(d) The records for each system ~~((shall))~~ must be made available for review by the department upon request.

~~((The employer))~~ You may omit the inspection requirements for portions of existing systems that are buried or enclosed in permanent structures in such a manner as to prevent exposure to employees even in the event of a failure.

~~((5))~~ (4) Systems or sections of systems found to be below the minimum design criteria requirements for the current service ~~((shall))~~ must be repaired or replaced with component parts and methods which equal the requirements for new installations.

~~((6))~~ (5) Identification of piping systems.

(a) Pipes containing hazardous materials ~~((shall))~~ must be identified. It is recommended that USAS A13.1 "Scheme for Identification of Piping Systems" be followed.

(b) Positive identification of piping system content ~~((shall))~~ must be identified by lettered legend giving the name of the content in full or abbreviated form, or a commonly used identification system. Such identification ~~((shall))~~ must be made and maintained at suitable intervals and at valves, fittings, and on both sides of walls or floors. Arrows may be used to indicate the direction of flow. Where it is desirable or necessary to give supplementary information such as hazard of use of the piping system content, this may be done by additional legend or by color applied to the entire piping system or as colored bands. Legends may be placed on colored bands.

Examples of legends which may give both positive identification and supplementary information regarding hazards or use are:

Ammonia	Hazardous liquid or gas
Chlorine	Hazardous liquid or gas
Liquid caustic	Hazardous liquid
Sulphuric acid	Hazardous liquid
Natural gas	Flammable/explosive gas

Note: Manual L-1, published by Chemical Manufacturers Association, Inc., is a valuable guide in respect to supplementary legend.

(c) When color, applied to the entire piping system or as colored bands, is used to give supplementary information it should conform to the following:

CLASSIFICATION	PREDOMINANT COLOR
F-Fire-protection equipment	Red
D-Dangerous materials	Yellow (or orange)
S-Safe materials	Green (or the achromatic colors, white, black, gray, or aluminum)
And, when required, P-Protective materials	Bright blue

(d) Legend boards showing the color and identification scheme in use ~~((shall))~~ must be prominently displayed at each plant. They ~~((shall))~~ must be located so that employees who may be exposed to hazardous material piping systems will have a frequent reminder of the identification program.

(e) All employees who work in the area of hazardous material piping systems ~~((shall))~~ must be given training in the color and identification scheme in use.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-59-085 Scaffolds, construction, use, and maintenance. (1) Whenever work must be performed at a height which cannot be reached from the floor or permanent platform and where it would not be a safe practice to use a ladder, a properly constructed scaffold ~~((shall))~~ must be provided and used.

(2) Scaffolds ~~((shall))~~ must be constructed and used in compliance with WAC 296-24-860 through 296-24-862.

AMENDATORY SECTION (Amending WSR 03-11-060, filed 5/19/03, effective 8/1/03)

WAC 296-59-090 Mobile equipment and lift trucks.

(1) Mobile equipment ~~((shall))~~ must be designed, constructed, maintained, and used in accordance with this section and appropriate ANSI and/or S₂A₂E₂ requirements.

(2) Operator training.

(a) Methods ~~((shall))~~ must be devised by management to train personnel in the safe operation of mobile equipment.

(b) Training programs for all mobile equipment ~~((shall))~~ must include the manufacturer's operating instructions when such instructions are available.

(c) Only trained and authorized operators ~~((shall))~~ must be permitted to operate such vehicles.

(3) Special duties of operator. Special duties of the operator of a power-driven vehicle ~~((shall))~~ must include the following:

(a) Test brakes, steering gear, lights, horns, warning devices, clutches, etc., before operating vehicle;

(b) Not move a vehicle while an unauthorized rider is on the vehicle;

(c) Slow down and sound horn upon approaching blind corners or other places where vision or clearance is limited;

(d) Comply with all speed and traffic regulations and other applicable rules;

(e) Have the vehicle being operated under control at all times so that he can safely stop the vehicle in case of emergency; and

(f) Keep the load on the uphill side when driving a fork-lift vehicle on a grade.

(4) Operator to be in proper position. Control levers of lift trucks, front end loaders, or similar types of equipment ~~((shall))~~ must not be operated except when the operator is in ~~((his))~~ their proper operating position.

(5) Raised equipment to be blocked. Employees ~~((shall))~~ must not work below the raised bed of a dump truck, raised buckets of front end loaders, raised blades of tractors or in similar positions without blocking the equipment in a manner that will prevent it from falling. When working under equipment suspended by use of jacks, safety stands or blocking ~~((shall))~~ must be used in conjunction with the jack.

(6) Precautions to be taken while inflating tire. Unmounted split rim wheels ~~((shall))~~ must be placed in a safety cage or other device ~~((shall))~~ must be used which will prevent a split rim from striking the worker if it should dislodge while the tire is being inflated.

(7) Reporting suspected defects. If, in the opinion of the operator, a power-driven vehicle is unsafe, the operator ~~((shall))~~ must report the suspected defect immediately to the person in charge. Any defect which would make the vehicle unsafe to operate under existing conditions ~~((shall))~~ must be cause for immediate removal from service. The vehicle ~~((shall))~~ must not be put back into use until it has been made safe.

(8) Safe speed. Vehicles ~~((shall))~~ must not be driven faster than a safe speed compatible with existing conditions.

(9) Unobstructed view.

(a) Vehicle operators ~~((shall))~~ must have a reasonably unobstructed view of the direction of travel. Where this is not possible, the operator ~~((shall))~~ must be directed by a person or by a safe guidance means or device.

(b) Where practical, mirrors ~~((shall))~~ must be installed at blind corners or intersections which will allow operators to observe oncoming traffic.

(c) It is recommended that vehicles operating in congested areas be provided with an automatic audible or visual alarm system.

(10) Passengers to ride properly.

(a) Passengers ~~((shall))~~ must not be permitted to ride with legs or arms extending outside the running lines of the cab, FOPS, or ROPS of any vehicle.

(b) Passengers on mobile oversnow equipment ~~((shall))~~ must ride within the cab unless exterior seating is provided. The exterior seating may include the cargo bed provided that the bed is equipped with sideboards and a tailgate at least ten inches high. If passengers are permitted to stand in the bed, adequate handholds ~~((shall))~~ must be provided.

(c) The number of passengers and seating arrangements within the cab on any mobile equipment ~~((shall))~~ must not interfere with the operator's ability to safely operate the equipment.

(d) Exterior passengers ~~((shall))~~ must not be permitted on mobile oversnow equipment which has snow grooming equipment mounted on the bed or when the machine is towing any kind of equipment, sleds, etc.

(e) Operators ~~((shall))~~ must use good judgment with respect to speed and terrain when carrying exterior passengers.

(11) Horns and lights.

(a) Every vehicle ((shall)) must be provided with an operable horn distinguishable above the surrounding noise level.

(b) Any vehicle required to travel away from an illuminated area ((shall)) must be equipped with a light or lights which adequately illuminate the direction of travel.

(12) Brakes on power-driven vehicles. Vehicles ((shall)) must be equipped with brakes and devices which will hold a parked vehicle with load on any grade on which it may be used. The brakes and parking devices ((shall)) must be kept in proper operating condition at all times.

(13) Cleaning vehicles. All vehicles ((shall)) must be kept free of excessive accumulations of dust and grease which may present a hazard.

(14) Lifting capacity of vehicle to be observed. At no time ((shall)) must a load in excess of the manufacturer's maximum lifting capacity rating be lifted or carried. Such lifting capacity may only be altered with the approval of the equipment manufacturer or a qualified design engineer.

(15) Posting rated capacity. The maximum rated lifting capacity of all lift trucks ((shall at all times)) must be posted at all times on the vehicle in such a manner that it is readily visible to the operator.

(16) Carrying loose material. Lift trucks ((shall)) must not be used to carry loose loads of pipe, steel, iron, lumber, palletized material, rolls of paper, or barrels unless adequate clearance is provided and the loads are stabilized.

(17) Position of lift forks or clamps. The forks or clamps of lift trucks ((shall)) must be kept as low as possible while the vehicle is moving. They ((shall)) must be lowered to the ground or floor when the vehicle is parked.

(18) Walking under loads prohibited. No person ((shall)) will be allowed under the raised load of a lift truck, backhoe, or front end loader.

(19) Hoisting of personnel on vehicle forks prohibited. Personnel ((shall)) must not be hoisted by standing directly on the forks of vehicles.

(20) Using forklifts as elevated work platforms. A platform or structure built specifically for hoisting persons may be used providing the following requirements are met:

(a) The structure must be securely attached to the forks and ((shall)) must have standard guardrails and toeboards installed on all sides;

(b) The hydraulic system ((shall)) must be so designed that the lift mechanism will not drop faster than one hundred thirty-five feet per minute in the event of a failure in any part of the system. Forklifts used for elevating work platforms ((shall)) must be identified that they are so designed;

(c) A safety strap ((shall)) must be installed or the control lever ((shall)) must be locked to prevent the boom from tilting;

(d) An operator ((shall)) must attend the lift equipment while workers are on the platform;

(e) The operator ((shall)) must be in the normal operating position while raising or lowering the platform. A qualified operator ((shall)) must remain in attendance whenever an employee is on the work platform;

(f) The vehicle ((shall)) must not travel from point to point while workers are on the platform except that inching or maneuvering at very slow speed is permissible; and

(g) The area between workers on the platform and the mast ((shall)) must be adequately guarded to prevent contact with chains or other shear points.

(21) Overhead guards on lift trucks. All lift trucks ((shall)) must be equipped with an overhead guard constructed and installed to conform to USAS B56.1-1969 "Safety Code for Powered Industrial Trucks." This guard may be removed only when it cannot be used due to the nature of the work being performed in which case loads ((shall)) must be maintained so as not to create a hazard to the operator.

(22) Protection from exhaust system. Any exhaust system which might be exposed to contact ((shall)) must be properly insulated or isolated to protect personnel. Exhaust systems on lift trucks and jitneys ((shall)) must be constructed to discharge either within twenty inches from the floor or eighty-four inches or more above the floor. The exhausted gases ((shall)) must be directed away from the operator. The equipment ((shall)) must be designed in such a manner that the operator will not be exposed to the fumes.

(23) Emergency exit from mobile equipment. Mobile equipment with an enclosed cab ((shall)) must be provided with an escape hatch or other method of exit in case the regular exit cannot be used.

(24) Vehicle wheels chocked. When driving mobile equipment onto the bed of a vehicle, the wheels of the vehicle ((shall)) must be chocked.

(25) Prevent trailer from tipping. Suitable methods ((shall)) must be used or devices installed which will prevent the trailer from tipping while being loaded or unloaded.

(26) Refueling. Gasoline or LPG engines ((shall)) must be shut off during refueling.

(27) Close valve on LPG container. Whenever vehicles using LP gas as a fuel are parked overnight or stored for extended periods of time indoors, with the fuel container in place, the service valve of the fuel container ((shall)) must be closed.

(28) LPG tanks. LPG vehicle fuel tanks ((shall)) must be installed and protected in a manner which will minimize the possibility of damage to the tank.

(29) Inspecting and testing of LPG containers. LPG containers ((shall)) must be inspected and tested as required by chapter 296-24 WAC.

(30) Spinners on steering wheels. The use of spinners on steering wheels ((shall)) must be prohibited unless an anti-kick device is installed or the equipment has a hydraulic steering system.

(31) The requirements of chapter 296-817 WAC, Hearing loss prevention (noise), apply to mobile equipment operation.

AMENDATORY SECTION (Amending WSR 88-14-108, filed 7/6/88)

WAC 296-59-095 Requirements for cranes and hoists—General safety and health standards to prevail. All applicable rules for design, construction, maintenance,

operation, and testing of cranes and hoists contained in the General safety and health standards, chapter 296-24 WAC, ~~((shall))~~ must be met.

AMENDATORY SECTION (Amending WSR 88-14-108, filed 7/6/88)

WAC 296-59-115 Ski lift facilities and structures. (1)

Existing ski lift facilities and structures ~~((shall))~~ must not be required to be retrofitted with standard construction work platforms, walkways, stairs or guardrails on exterior surfaces when such features would add significantly to snow loading considerations. When such standard protective features are omitted, alternative personal protective measures ~~((shall))~~ must be used where possible. Examples include but are not limited to: Safety belt and lanyard, ladder climbing safety devices, temporary work platforms or scaffolds, temporary or removable handrails, guardrails, or walkways.

(2) Snow removal.

(a) During the operating season, standard guardrails which would interfere with snow removal may be omitted in areas where it can be anticipated that frequent snow removal will be necessary to maintain operability of ski lift apparatus. Examples could include but are not limited to the motor house roof or loading and unloading areas.

(b) Personnel barricades, signs, or other devices ~~((shall))~~ must be used to deflect traffic or warn personnel of existing fall hazards.

(3) All ski lift towers installed after the effective date of this standard ~~((shall))~~ must be equipped with permanent ladders or steps which meet the following minimum requirements:

(a) The minimum design live load ~~((shall))~~ must be a single concentrated load of two hundred pounds.

(b) The number and position of additional concentrated live load units of two hundred pounds each as determined from anticipated usage of the ladder ~~((shall))~~ must be considered in the design.

(c) The live loads imposed by persons occupying the ladder ~~((shall))~~ must be considered to be concentrated at such points as will cause the maximum stress in the structural member being considered.

(d) The weight of the ladder and attached appurtenances together with the live load ~~((shall))~~ must be considered in the design of rails and fastenings.

(e) All rungs ~~((shall))~~ must have a minimum diameter of three-fourths inch.

(f) The distance between rungs on steps ~~((shall))~~ must not exceed twelve inches and shall be uniform throughout the ladder length. The top rung ~~((shall))~~ must be located at the level of the landing or equipment served by the ladder.

(g) The minimum clear length of rungs or steps ~~((shall))~~ must be sixteen inches on new installations.

(h) Rungs, cleats, and steps ~~((shall))~~ must be free of sharp edges, burrs, or projections which may be a hazard.

(i) The rungs of an individual-rung ladder ~~((shall))~~ must be so designed that the foot cannot slide off the end. (A suggested design is shown in Figure D-1, at the end of this section.)

(j) Side rails which might be used as a climbing aid ~~((shall))~~ must be of such cross sections as to afford adequate gripping surface without sharp edges or burrs.

(k) Fastenings ~~((Fastenings shall))~~ must be an integral part of fixed ladder design.

(l) All splices made by whatever means ~~((shall))~~ must meet design requirements as noted in (a) of this subsection. All splices and connections ~~((shall))~~ must have smooth transition with original members and with no sharp or extensive projections.

(m) Adequate means ~~((shall))~~ must be employed to protect dissimilar metals from electrolytic action when such metals are joined.

(n) ~~((Welding.))~~ All welding ~~((shall))~~ must be in accordance with the "Code for Welding in Building Construction" (AWS D1.0-1966).

(o) Protection from deterioration. Metal ladders and appurtenances ~~((shall))~~ must be painted or otherwise treated to resist corrosion and rusting when location demands.

(4) Installation and clearance.

(a) Pitch.

(i) The preferred pitch of fixed ladders is between the range of seventy-five degrees and ninety degrees with the horizontal (Figure D-4).

(ii) Substandard pitch. Fixed ladders ~~((shall))~~ must be considered as substandard if they are installed within the substandard pitch range of forty-five and seventy-five degrees with the horizontal. Substandard fixed ladders are permitted only where it is found necessary to meet conditions of installation. This substandard pitch range is considered as a critical range to be avoided, if possible.

(iii) Pitch greater than ninety degrees. Ladders having a pitch in excess of ninety degrees with the horizontal are prohibited.

(b) Clearances.

(i) The perpendicular distance from the centerline of the rungs to the nearest permanent object on the climbing side of the ladder ~~((shall))~~ must be thirty-six inches for a pitch of seventy-six degrees, and thirty inches for a pitch of ninety degrees (Figure D-2), with minimum clearances for intermediate pitches varying between these two limits in proportion to the slope.

(ii) A clear width of at least fifteen inches ~~((shall))~~ must be provided each way from the centerline of the ladder in the climbing space.

(iii) The side rails of through or side-step ladder extensions ~~((shall))~~ must extend three and one-half feet above parapets and landings.

(A) For through ladder extensions, the rungs ~~((shall))~~ must be omitted from the extension and ~~((shall))~~ must have not less than eighteen nor more than twenty-four inches clearance between rails.

(B) For side-step or offset fixed ladder sections, at landings, the side rails and rungs ~~((shall))~~ must be carried to the next regular rung beyond or above the three and one-half feet minimum.

(iv) Grab bars ~~((shall))~~ must be spaced by a continuation of the rung spacing when they are located in the horizontal position. Vertical grab bars ~~((shall))~~ must have the same

spacing as the ladder side rails. Grab bar diameters ~~((shall))~~ must be the equivalent of the round-rung diameters.

(v) Clearance in back of ladder. The distance from the centerline of rungs, cleats, or steps to the nearest permanent object in back of the ladder ~~((shall))~~ must be not less than seven inches, except that when unavoidable obstructions are encountered, minimum clearances as shown in Figure D-3 shall be provided.

(vi) Clearance in back of grab bar. The distance from the centerline of the grab bar to the nearest permanent object in back of the grab bars ~~((shall))~~ must be not less than four inches. Grab bars ~~((shall))~~ must not protrude on the climbing side beyond the rungs of the ladder which they serve.

(c) The step-across distance from the nearest edge of a ladder to the nearest edge of the equipment or structure ~~((shall be))~~ must not be more than twelve inches, or less than two and one-half inches. However, the step-across distance may be as much as twenty inches provided:

(i) The climber is wearing a safety belt and lanyard; and

(ii) The lanyard is attached to the tower structure before the climber steps off the ladder.

(5) Ski lift towers are not required to be equipped with ladder cages, platforms or landings.

(6) Maintenance and use.

(a) All ladders ~~((shall))~~ must be maintained in a safe condition. All ladders ~~((shall))~~ must be inspected regularly, with the intervals between inspections being determined by use and exposure.

(b) When ascending or descending, the climber must face the ladder.

(c) Personnel ~~((shall))~~ must not ascend or descend ladders while carrying tools or materials which could interfere with the free use of both hands.

(7) Personnel ~~((shall))~~ must be provided with and ~~((shall))~~ must use ladder safety devices or safety belts and lanyards whenever feasible.

(8) Personnel ~~((shall))~~ must not place mobile equipment or personal equipment such as skis, ski poles, or large tools within the falling radius of the lift tower while climbing or working on the lift tower.

(9) Ski lift towers and terminals are not required to be equipped with sheave guards on the haulrope wheels.

(10) Ski lift towers are not required to be equipped with work platforms.

(11) Personnel ~~((shall))~~ must use personal protective equipment such as ~~((a))~~ safety belts and lanyards when working at unprotected elevated locations. Exception to this requirement ~~((shall))~~ must only be permitted for emergency rescue or emergency inspection if a safety belt and lanyard is not immediately available. Required personal protective equipment ~~((shall))~~ must be made available as quickly as possible.

(12) When fixed ladders on towers do not reach all the way down to the ground or snow level, a specifically designed and constructed portable ladder ~~((shall))~~ must be used for access to and from the fixed ladder. Portable ladders ~~((shall))~~ must be constructed and maintained to the following requirements:

(a) The portable ladder ~~((shall))~~ must be constructed in accordance with applicable provisions of subsection (3) of this section.

(b) The portable ladder ~~((shall))~~ must be constructed with a minimum of two attachment hooks near the top to be utilized for securing the portable ladder onto the fixed ladder.

(c) The attachment hooks ~~((shall))~~ must be installed to support the portable ladder near the fixed ladder ~~((siderails))~~ side rails.

(d) Rungs or steps on the portable ladder ~~((shall))~~ must be spaced to be identical with rungs or steps on the fixed ladder when the portable ladder is attached for use. The design criteria ~~((shall be to))~~ must achieve a horizontal plane relationship on the top (walking surface) portion of both steps when overlapping is necessary.

(e) The portable ladder ~~((shall))~~ must be equipped with a hold-out device near the bottom to assure clearance behind the steps as required by subsection (4)(b)(v) of this section.

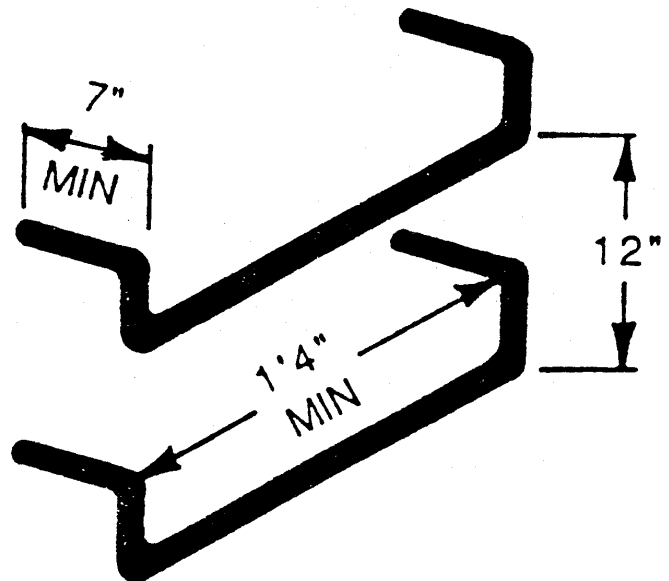


FIGURE D-1

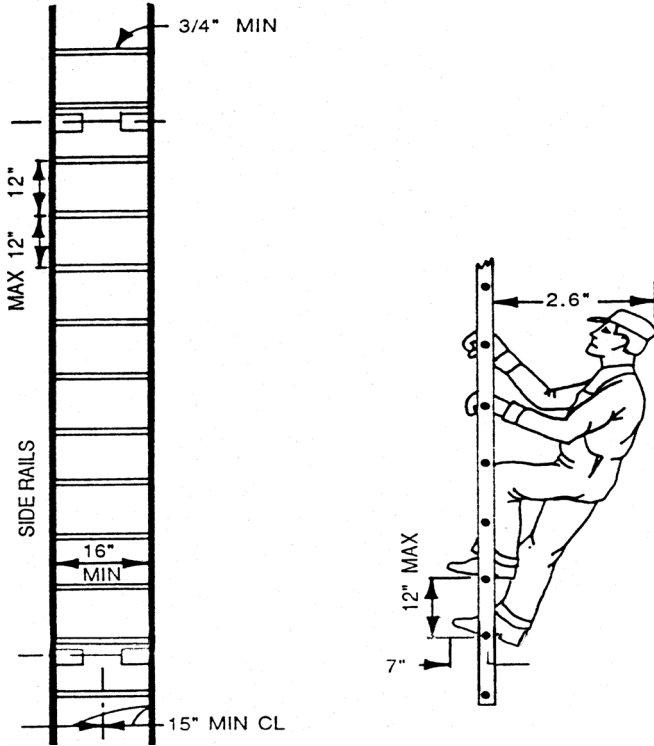


FIGURE D-2
Minimum Ladder Clearance

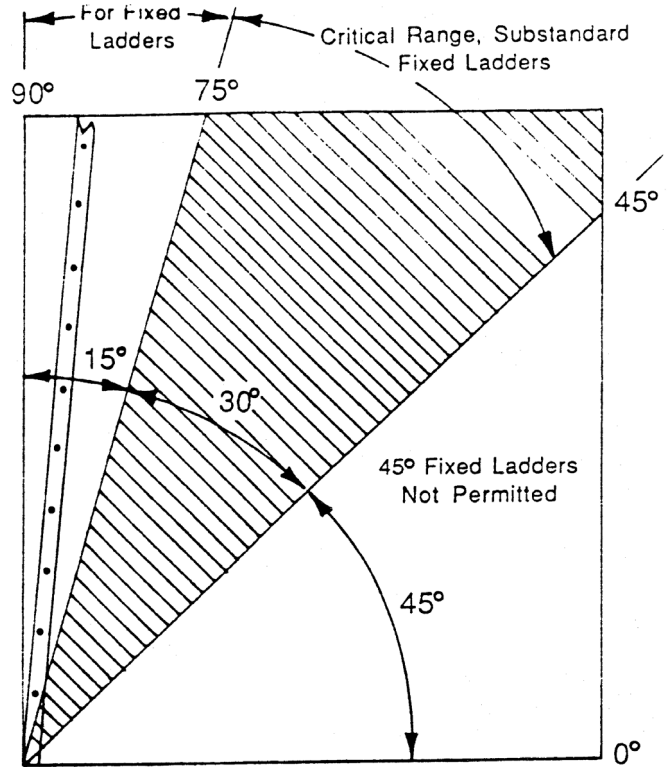


FIGURE D-4
Fixed Ladder Range

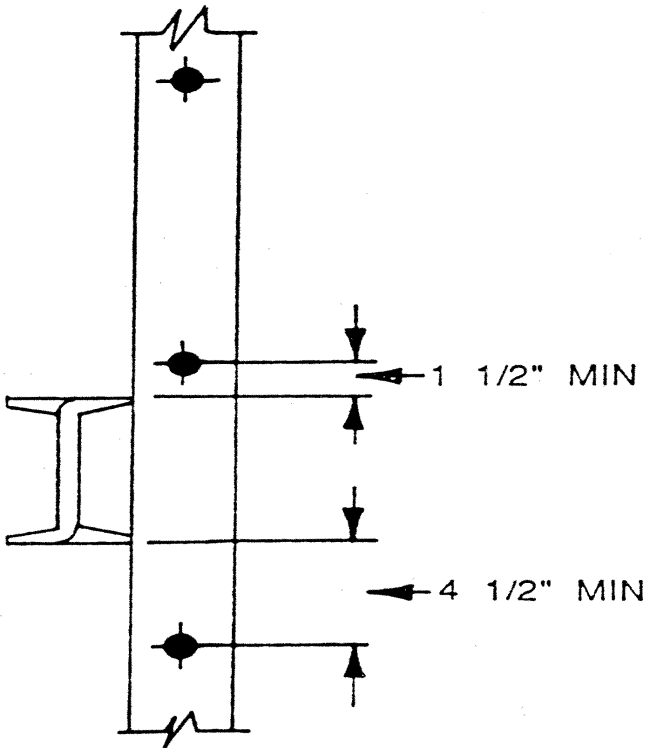


FIGURE D-3
Clearance for Unavoidable Obstruction
at Rear of Fixed Ladder.

AMENDATORY SECTION (Amending WSR 88-14-108, filed 7/6/88)

WAC 296-59-120 Ski lift operations. (1) Operators.

(a) Only trained and qualified lift operators (~~shall~~) must be permitted to operate any lift while it is carrying passengers.

(b) Management designated trainees (~~shall~~) must only be permitted to operate a lift while under the direct supervision of a qualified operator or trainer.

(c) Initial training of operators (~~shall~~) must be accomplished when the lift is not carrying passengers.

(d) Operator training (~~shall~~) must include:

- (i) Standard and emergency start up procedures;
- (ii) Standard and emergency stopping procedures;
- (iii) Lockout procedures;
- (iv) Corrective actions for operating malfunctions;

(v) Specific instructions on who to contact for different kinds of rescue emergencies;

(vi) Specific instructions on standard operating procedures with respect to the hazard of loading or unloading passengers proximate to the moving lift chairs.

(2) Operators and helpers (~~shall~~) must prepare and maintain the loading and unloading work stations in a leveled condition and, to the extent possible, free from slipping hazards caused by ice, ruts, excessive snow accumulation, tools, etc.

(3) Daily start up procedure.

(a) Loading station operators ~~((shall))~~ must test all operating controls and stopping controls before permitting any personnel or passengers to load on the lift.

(b) The lift must travel a distance of two times the longest tower span before any employee can load on a chair to go to the remote station.

(c) A qualified operator ~~((shall))~~ must be the first passenger on each lift each day.

Exception: The avalanche control team and the emergency rescue team may use any operable lift at anytime for that work. They may use lifts without a remote operator provided that direct communications are maintained to the operator and the operator has successfully completed normal daily safety and operating control checks at the operating station in use.

(d) ~~((Enroute))~~ En route to the remote station, the remote operator ~~((shall))~~ must visually inspect each tower as the chair or gondola proceeds to the remote station.

(e) The remote operator ~~((shall))~~ must stop the system when he/she has reached the remote control station. The operator ~~((shall))~~ must then conduct the daily safety and operating control checks on the remote station.

(f) The remote operator ~~((shall))~~ must ensure that the unloading area is groomed to adequately accommodate normal unloading.

(g) When all controls are checked and functioning correctly and the unloading area is prepared, the remote operator ~~((shall))~~ must communicate to the operator that the system can be placed in normal operation.

(4) Operators ~~((shall))~~ must report to their work station wearing adequate clothing for inclement weather which may be encountered. This requirement ~~((shall))~~ must include reasonably water resistant footwear which ~~((shall))~~ must have a slip resistant sole tread.

(5) While the lift is in operation and carrying passengers, operators ~~((shall))~~ must not permit any activity in the loading/unloading areas which could distract their attention from the principle duty of safely loading or unloading passengers.

(6) Means of communication ~~((shall))~~ must be maintained between the top operator and bottom operator stations.

AMENDATORY SECTION (Amending WSR 88-14-108, filed 7/6/88)

WAC 296-59-125 Ski lift aerial work platforms. (1) Construction and loading.

(a) All aerial work platforms ~~((shall))~~ must be constructed to sustain the permissible loading with a safety factor of four. The load permitted ~~((shall))~~ must be calculated to include:

(i) The weight of the platform and all suspension components;

(ii) The weight of each permitted occupant calculated at two hundred fifty pounds per person including limited handtools;

(iii) The weight of any additional heavy tools, equipment, or supplies for tasks commonly accomplished from the work platform.

(b) The floor of the platform ~~((shall))~~ must not have openings larger than two inches in the greatest dimension.

(c) The platform ~~((shall))~~ must be equipped with toeboards at least four inches high on all sides.

(d) Guardrails.

(i) The platform ~~((shall))~~ must be equipped with standard height and strength guardrails where such guardrails will pass through the configuration of all lifts on which it is intended to be used.

(ii) Where guardrails must be less than thirty-six inches high in order to clear carriages, guideage, etc., guardrails ~~((shall))~~ must be as high as will clear the obstructions but never less than twelve inches high.

(iii) If the work platform is equipped with an upper work level, the upper level platform ~~((shall))~~ must be equipped with a toeboard at least four inches high.

(iv) Each platform ~~((shall))~~ must be equipped with a lanyard attachment ring for each permissible occupant to attach a safety belt lanyard.

(v) Each lanyard attachment ring ~~((shall))~~ must be of such strength as to sustain five thousand four hundred pounds of static loading for each occupant permitted to be attached to a specific ring.

(vi) Attachment rings ~~((shall))~~ must be permanently located as close to the center balance point of the platform as is practical.

(vii) The rings may be movable, for instance, up and down a central suspension rod, but ~~((shall))~~ must not be completely removable.

(e) Platform attachment.

(i) The platform ~~((shall))~~ must be suspended by either a standard wire rope four part bridle or by solid metal rods, bars, or pipe.

(ii) The attachment means chosen ~~((shall))~~ must be of a type which will prevent accidental displacement.

(iii) The attachment means ~~((shall))~~ must be adjusted so that the platform rides level when empty.

(f) Maintenance.

(i) Every aerial work platform ~~((shall))~~ must be subjected to a complete annual inspection by qualified personnel.

(ii) The inspection ~~((shall))~~ must include all structural members, welding, bolted or treaded fittings, and the suspension components.

(iii) Any defect noted ~~((shall))~~ must be repaired before the platform is placed back in service.

(iv) A written record ~~((shall))~~ must be kept for each annual inspection. The record ~~((shall))~~ must include:

(A) The inspector identification;

(B) All defects found;

(C) The identity of repair personnel;

(D) Identity of the postrepair inspector who accepted the platform for use.

(g) The platform ~~((shall))~~ must be clearly identified as to the number of permissible passengers and the weight limit of additional cargo permitted.

(i) Signs ~~((shall))~~ must be applied on the outside of each side panel.

(ii) Signs ~~((shall))~~ must be maintained in clearly legible condition.

(h) Unless the side guardrail assembly is at least thirty-six inches high on all sides, signs ~~((shall))~~ must be placed on the inside floor or walls to clearly inform all passengers that they must use a safety belt and lanyard at all times when using the platform.

(2) Work platform use.

(a) Platforms ~~((shall))~~ must be attached to the haulrope with an attachment means which develops a four to one strength factor for the combined weight of the platform and all permissible loading.

(b) The haulrope attachment means ~~((shall))~~ must be designed to prevent accidental displacement.

(c) Trained and competent personnel ~~((shall))~~ must attach and inspect the platform before each use.

(d) Passengers ~~((shall))~~ must be provided with and ~~((shall))~~ must use the correct safety harness and lanyard for the intended work.

(e) Any time a passenger's position is not protected by a standard guardrail at least thirty-six inches high, the individual ~~((shall))~~ must be protected by a short lanyard which will not permit free-fall over the platform edge.

(f) When personnel are passengers on a work platform and their work position requires the use of a safety harness and lanyard, the lanyard ~~((shall))~~ must be attached to the work platform, not to the haulrope or tower.

(g) Work platform passengers ~~((shall))~~ must face in the direction of travel when the lift is moving.

(h) Tools, equipment and supplies ~~((shall))~~ must be loaded on the platform in such a fashion that the loaded platform can safely pass all towers and appurtenances.

(i) Heavy tools, equipment or supplies ~~((shall))~~ must be secured in place if they could fall over or roll within the platform and create a hazard for passengers.

(j) When the work crew is traveling on the work platform, the lift ~~((shall))~~ must be operated at a speed which is safe for that particular system and the conditions present.

Note: See Appendix 2 for operating procedure requirements.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-59-130 Ski lift machinery guarding. (1) Moving machine parts that are located within normal reach ~~((shall))~~ must be fitted with safety guards in compliance with chapter 296-806 WAC, Machine safety.

(a) The coupling apparatus for the ski lift emergency drive may be provided with a removable or swing guard.

(b) When removable or swing guards are used, the guard and mounting means ~~((shall))~~ must be so designed and constructed as to sustain a two hundred fifty pound weight loading without displacement.

(2) All guards ~~((shall))~~ must be maintained in good condition and ~~((shall))~~ must be secured in place when the equipment is in operation except for inspection and adjustment purposes.

(3) The drive machinery and primary control apparatus ~~((shall))~~ must be installed in a facility which can prevent access by unauthorized personnel. The access door ~~((shall))~~ must have a sign which states that entry is restricted to authorized personnel.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-78-500 Foreword. (1) General requirements. The chapter 296-78 WAC ~~((shall))~~ will apply to and include safety requirements for all installations where the primary manufacturing of wood building products takes place. The installations may be a permanent fixed establishment or a portable operation. These operations ~~((shall))~~ will include, but are not limited to, log and lumber handling, sawing, trimming and planing, plywood or veneer manufacturing, canting operations, waste or residual handling, operation of dry kilns, finishing, shipping, storage, yard and yard equipment, and for power tools and affiliated equipment used in connection with such operation. WAC 296-78-450 shall apply to shake and shingle manufacturing. The provisions of WAC 296-78-500 through 296-78-84011 are also applicable in shake and shingle manufacturing except in instances of conflict with the requirements of WAC 296-78-705. (Rev. 1-28-76.)

(2) This standard ~~((shall))~~ will augment the Washington state general safety and health standards, general occupational health standards, electrical workers safety rules, and any other standards which are applicable to all industries governed by chapter 80, Laws of 1973, Washington Industrial Safety and Health Act. In the event of any conflict between any portion of this chapter and any portion of any of the general application standards, the provisions of this chapter 296-78 WAC, ~~((shall))~~ will apply.

(3) In exceptional cases where compliance with specific provisions of this chapter can only be accomplished to the serious detriment and disadvantage of an operation, variance from the requirement may be permitted by the director of the department of labor and industries after receipt of application for variance which meets the requirements of chapter 296-900 WAC.

(4) No safety program will run itself. To be successful, the wholehearted interest of the employees' group (labor unions) and management must not only be behind the program, but the fact must also be readily apparent to all.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-505 Definitions applicable to this chapter. ~~((1))~~ **A-frame** ~~((means))~~. A structure made of two independent columns fastened together at the top and separated at the bottom for stability.

~~((2))~~ **Annealing** ~~(())~~. Heating then cooling to soften and render less brittle.

~~((3))~~ **Binder** ~~(())~~. A hinged lever assembly used to connect the ends of a wrapper to tighten the wrapper around the load of logs or materials.

~~((4))~~ **Boom** ~~(())~~. Logs or timbers fastened together end to end and used to contain floating logs. The term includes enclosed logs.

~~((5))~~ **Brow log** ~~(())~~. A log placed parallel to a roadway at a landing or dump to protect vehicles while loading or unloading.

~~((6))~~ **Bunk** ~~(())~~. A cross support for a load.

~~((7))~~ **Cant** ~~(())~~. A log slabbed on one or more sides.

~~((8))~~**Carriage** ~~(())~~ **(log carriage)**. A framework mounted on wheels which runs on tracts or in grooves in a direction parallel to the face of the saw, and which contains apparatus to hold a log securely and advance it toward the saw.

~~((9))~~**Carrier** ~~(())~~. An industrial truck so designed and constructed that it straddles the load to be transported with mechanisms to pick up the load and support it during transportation.

~~((10))~~**Chipper** ~~(())~~. A machine which cuts material into chips.

~~((11))~~**Chock**, ~~(())~~ **bunk block**, ~~(())~~ **and** ~~(())~~ **cheese block** ~~(())~~. A wedge that prevents logs or loads from moving.

~~((12))~~**Cold deck** ~~(())~~. A pile of logs stored for future removal.

~~((13))~~**Crotch lines** ~~(())~~. Two short lines attached to a hoisting line by a ring or shackle, the lower ends being attached to loading hooks.

~~((14))~~**Dog** ~~(())~~ **(carriage dog)**. A steel tooth or assembly of steel teeth, one or more of which are attached to each carriage knee to hold log firmly in place on carriage.

~~((15))~~**Drag saw** ~~(())~~. A power-driven, reciprocating cross-cut saw mounted on suitable frame and used for bucking logs.

~~((16))~~**Head block** ~~(())~~. That part of a carriage which holds the log and upon which it rests. It generally consists of base, knee, taper set, and mechanism.

~~((17))~~**Head rig** ~~(())~~. A combination of head saw and log carriage used for the initial breakdown of logs into timbers, cants, and boards.

~~((18))~~**Hog** ~~(())~~. A machine for cutting or grinding slabs and other coarse residue from the mill.

~~((19))~~**Husk** ~~(())~~. A head saw framework on a circular mill.

~~((20))~~**Industrial truck** ~~(())~~. A mobile, power-driven vehicle used to carry, push or pull material. It is designed for "in-plant" or "on-site" use rather than highway use.

~~((21))~~**Kiln tender** ~~(())~~. The operator of a kiln.

~~((22))~~**Lift truck** ~~(())~~. An industrial truck used for lateral transportation and equipped with a power-operated lifting device, usually in the form of forks, for piling or unpling lumber units or packages.

~~((23))~~**Live rolls** ~~(())~~. Cylinders of wood or metal mounted on horizontal axes and rotated by power, which are used to convey slabs, lumber, and other wood products.

~~((24))~~**Loading boom** ~~(())~~. Any structure projecting from a pivot point and intended to be used for lifting and guiding loads for the purpose of loading or unloading.

~~((25))~~**Log** ~~(())~~. A portion of a tree, usually a minimum of twelve feet in length, capable of being further processed into a variety of wood products.

~~((26))~~**Log deck** ~~(())~~. A platform in the sawmill on which the logs remain until needed for sawing.

~~((27))~~**Log haul** ~~(())~~. A conveyor for transferring logs to mill.

~~((28))~~**Lumber dimensions** ~~(())~~. The nominal size of surfaced lumber, unless otherwise stated.

~~((29))~~**Lumber hauling truck** ~~(())~~. An industrial truck, other than a lift truck or a carrier, used for the transport of lumber.

~~((30))~~**Package** ~~(())~~. A unit of lumber.

~~((31))~~**Peavy** ~~(())~~. A stout wooden handle fitted with a spike and hook and used for rolling logs.

~~((32))~~**Peeler block** ~~(())~~. A portion of a tree usually bucked in two foot intervals plus trim, to be peeled in a lathe or sliced in a slicer into veneer for further processing into plywood.

~~((33))~~**Pike pole** ~~(())~~. A long pole whose end is shod with a sharp pointed spike.

~~((34))~~**Pitman rod** ~~(())~~. Connecting rod.

~~((35))~~**Resaw** ~~(())~~. Band, circular, or sash gang saws used to break down slabs, cants, or flitches into lumber.

~~((36))~~**Running line** ~~(())~~. Any moving rope as distinguished from a stationary rope such as a guyline.

~~((37))~~**Safety factor** ~~(())~~. A calculated reduction factor which may be applied to laboratory test values to obtain safe working stresses for wooden beams and other mechanical members; ratio of breaking load to safe load.

~~((38))~~**Saw guide** ~~(())~~. A device for steadying a circular or bandsaw.

~~((39))~~**Setwork** ~~(())~~. A mechanism on a sawmill carriage which enables an operator to move the log into position for another cut.

~~((40))~~**Sorting gaps** ~~(())~~. The areas on a log pond enclosed by boom sticks into which logs are sorted.

~~((41))~~**Spreader wheel** ~~(())~~. A metal wheel that separates the board from the log in back of circular saws to prevent binding.

~~((42))~~**Splitter** ~~(())~~. A knife-type, nonrotating spreader.

~~((43))~~**Sticker** ~~(())~~. A strip of wood or other material used to separate layers of lumber.

~~((44))~~**Stiff boom** ~~(())~~. The anchored, stationary boom sticks which are tied together and on which boom persons work.

~~((45))~~**Swifter** ~~((is a))~~. The tying of boom sticks together to prevent them from spreading while being towed.

~~((46))~~**Telltale** ~~(())~~. A device used to serve as a warning for overhead objects.

~~((47))~~**Top saw** ~~(())~~. The upper of two circular saws on a head rig, both being on the same husk.

~~((48))~~**Tramway** ~~(())~~. A way for trams, usually consisting of parallel tracks laid on wooden beams.

~~((49))~~**Trestle** ~~(())~~. A braced framework of timbers, piles or steelwork for carrying a road or railroad over a depression.

~~((50))~~**Wrapper** ~~(())~~. A chain, strap or wire rope assembly used to contain a load of logs or materials.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-510 Education and first-aid standards. It ~~((shall))~~ must be the duty of every employer to comply with such standards and systems of education for safety as ~~((shall))~~ must be, from time to time, prescribed for such employer by the director of labor and industries through the division of industrial safety and health or by statute.

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

WAC 296-78-515 Management's responsibility. (1) It ~~((shall))~~ must be the responsibility of management to establish, supervise, and enforce, in a manner which is effective in practice:

(a) A safe and healthful working environment.

(b) An accident prevention program as required by these standards.

(c) Training programs to improve the skill and competency of all employees in the field of occupational safety and health. Such training ~~((shall))~~ must include the on-the-job instructions on the safe use of powered materials handling equipment, machine tool operations, use of toxic materials and operation of utility systems prior to assignments to jobs involving such exposures.

(2) ~~((The employer shall))~~ You must develop and maintain a hazard communication program as required by WAC 296-901-140, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(3) Management ~~((shall))~~ must not assign mechanics, millwrights, or other persons to work on equipment by themselves when there is a probability that the person could fall from elevated work locations or equipment or that a person could be pinned down by heavy parts or equipment so that they could not call for or obtain assistance if the need arises.

Note: This subsection does not apply to operators of motor vehicles, watchperson or certain other jobs which, by their nature, are singular employee assignments. However, a definite procedure for checking the welfare of all employees during their working hours shall be instituted and all employees so advised.

(4) After the emergency actions following accidents that cause serious injuries that have immediate symptoms, a preliminary investigation of the cause of the accident ~~((shall))~~ must be conducted. The investigation ~~((shall))~~ must be conducted by a person designated by ~~((the employer))~~ you, the immediate supervisor of the injured employee, witnesses, employee representative if available and any other person with the special expertise required to evaluate the facts relating to the cause of the accident. The findings of the investigation ~~((shall))~~ must be documented by ~~((the employer))~~ you for reference at any following formal investigation.

(5) Reporting and recording requirements. ~~((The employer))~~ You must comply with chapter 296-27 WAC for recording work-related injuries and illnesses and reporting to the department any work-related fatality, inpatient hospitalization, amputation, or the loss of an eye.

(6) ~~((The employer))~~ You must comply with the accident investigation requirements in WAC 296-800-320.

(7) Personal protective equipment required by this standard ~~((shall))~~ must be provided at no cost to employees.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-520 Employee's responsibility. (1) Employees ~~((shall))~~ must coordinate and cooperate with all other employees in an attempt to eliminate accidents.

(2) Employees ~~((shall))~~ must study and observe all safe practices governing their work.

(3) Employees should offer safety suggestions, wherein such suggestions may contribute to a safer work environment.

(4) Employees ~~((shall))~~ must apply the principles of accident prevention in their daily work and ~~((shall))~~ must use proper safety devices and protective equipment as required by their employment or employer.

(5) Employees ~~((shall))~~ must properly care for all personal protective equipment.

(6) Employees ~~((shall))~~ must make a prompt report to their immediate supervisor, of each industrial injury or occupational illness, regardless of the degree of severity.

(7) Employees ~~((shall))~~ must not wear torn or loose clothing while working around machinery.

AMENDATORY SECTION (Amending WSR 94-20-057, filed 9/30/94, effective 11/20/94)

WAC 296-78-525 Accident-prevention programs. Each employer ~~((shall))~~ must develop a formal accident-prevention program, tailored to the needs of the particular plant or operation and to the type of hazards involved. The department may be contacted for assistance in developing appropriate programs.

(1) The following are the minimal program elements for all employers:

(a) A safety orientation program describing the employer's safety program and including:

(i) How and when to report injuries, including instruction as to the location of first-aid facilities.

(ii) How to report unsafe conditions and practices.

(iii) The use and care of required personal protective equipment.

(iv) The proper actions to take in event of emergencies including the routes of exiting from areas during emergencies.

(v) Identification of the hazardous gases, chemicals or materials involved along with the instructions on the safe use and emergency action following accidental exposure.

(vi) A description of the ~~((employers))~~ employer's total safety program.

(vii) An on-the-job review of the practices necessary to perform the initial job assignments in a safe manner.

(b) A designated safety and health committee consisting of management and employee representatives with the employee representatives being elected or appointed by fellow employees.

(2) Each accident-prevention program ~~((shall))~~ must be outlined in written format.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-530 Safety and health committee plan. (1) All employers of eleven or more employees ~~((shall))~~ must have a designated safety committee composed of employer and employee elected members.

(a) The terms of employee-elected members ~~((shall))~~ must be a maximum of one year. Should a vacancy occur on

the committee, a new member ~~((shall))~~ must be elected prior to the next scheduled meeting.

(b) The number of employer-selected members ~~((shall))~~ must not exceed the number of employee-elected members.

(2) The safety committee ~~((shall))~~ must have an elected chairperson.

(3) The safety committee ~~((shall))~~ must be responsible for determining the frequency of committee meetings.

Note: If the committee vote on the frequency of safety meetings is stalemated, the division's regional safety educational representative may be consulted for recommendations.

(a) The committee ~~((shall))~~ must be responsible for determining the date, hour and location of the meetings.

(b) The length of each meeting ~~((shall))~~ must not exceed one hour except by majority vote of the committee.

(4) Minutes of each committee meeting ~~((shall))~~ must be prepared and filed for a period of at least one year and ~~((shall))~~ be made available for review by noncompliance personnel of the division of industrial safety and health.

(5) Safety and health committee meetings ~~((shall))~~ must address the following:

(a) A review of the safety and health inspection reports to assist in correction of identified unsafe conditions or practices.

(b) An evaluation of the accident investigations conducted since the last meeting to determine if the cause of the unsafe acts or unsafe conditions involved was properly identified and corrected.

(c) An evaluation of the accident or illness prevention program with the discussion of recommendation for improvement where indicated.

(d) The attendance ~~((shall))~~ must be documented.

(e) The subject(s) discussed ~~((shall))~~ must be documented.

(6) All employers of ten or less employees and employers of eleven or more employees where the employees are segregated on different shifts or in widely dispersed locations in crews of ten or less employees, may elect to have foreman-crew meetings in lieu of a safety and health committee plan provided:

(a) Foreman-crew safety meetings be held at least once a month, however, if conditions require, weekly or semi-monthly meetings ~~((shall))~~ must be held to discuss safety problems as they arise.

(b) All items under subsection (5) of this section ~~((shall))~~ must be covered.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-535 Safety bulletin board. There ~~((shall))~~ must be installed and maintained in every fixed establishment, a safety bulletin board sufficient in size to display and post safety bulletins, newsletters, posters, accident statistics and other safety educational material. It is recommended that safety bulletin boards be painted green and white.

AMENDATORY SECTION (Amending WSR 04-07-160, filed 3/23/04, effective 5/1/04)

WAC 296-78-540 First-aid training and certification. ~~((The employer))~~ You must ensure that first-aid trained personnel are available to help employees who are injured or who become acutely ill on the job. ~~((The employer))~~ You must meet this requirement by maintaining first-aid trained staff on the job site. ~~((The employer))~~ You must ensure that:

(1) Each person in charge of employees has first-aid training; or another person with first-aid training is present or available to the employees. Such training must be successfully completed every two years;

(2) Documentation of first-aid training is kept;

(3) Emergency telephone numbers are adequately posted.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-560 Safe place standards. (1) Each employer ~~((shall))~~ must furnish to each of his employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his employees.

(2) Every employer ~~((shall))~~ must furnish and use safety devices and safeguards, and ~~((shall))~~ adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe. Every employer ~~((shall))~~ must do every other thing reasonably necessary to protect the life and safety of employees.

(3) ~~((No employer shall))~~ Employers must not require any employee to go or be in any employment or place of employment which is not safe.

(4) No employer ~~((shall))~~ must fail or neglect:

(a) To provide and use safety devices and safeguards.

(b) To adopt and use methods and processes reasonably adequate to render the employment and place of employment safe.

(c) To do every other thing reasonably necessary to protect the life and safety of employees.

(5) No employer, owner, or lessee of any real property ~~((shall))~~ must construct or cause to be constructed any place of employment that is not safe.

(6) No person ~~((shall))~~ must do any of the following:

(a) Remove, displace, damage, destroy or carry off any safety device, safeguard, notice, or warning, furnished for use in any employment or place of employment.

(b) Interfere in any way with the use thereof by any other person.

(c) Interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment, or place of employment.

(d) Fail or neglect to do every other thing reasonably necessary to protect the life and safety of employees.

(e) Intoxicating beverages and narcotics ~~((shall))~~ must not be permitted or used in or around work sites. Workers under the influence of alcohol or narcotics ~~((shall))~~ must not be permitted on the work site. This rule does not apply to persons taking prescription drugs and or narcotics as directed by

a physician, providing such use ~~((shall))~~ does not endanger the worker or others.

AMENDATORY SECTION (Amending WSR 02-03-124, filed 1/23/02, effective 3/1/02)

WAC 296-78-56501 Log dumps and ponds. (1) Log dumps, booms, ponds or storage areas, if used at night, ~~((shall))~~ must be illuminated in accordance with the requirements of WAC 296-800-210, safety and health core rules.

(2) A log dump ~~((shall))~~ must be constructed at each log pond or decking ground. Log trucks ~~((shall))~~ must not be unloaded by use of peavies or by hand.

(a) The roadbed ~~((shall))~~ must be of hard packed gravel, heavy planking or equivalent material and ~~((shall))~~ be maintained at all times. Roadbeds at log dumps ~~((shall))~~ must be of width and evenness to ~~((insure))~~ ensure safe operation of equipment.

(b) A mechanical unloading device ~~((shall))~~ must be provided and used for unloading logs. Log unloading areas ~~((shall))~~ must be arranged and maintained to provide a safe working area.

(c) Signs prohibiting unauthorized foot or vehicle traffic in log unloading and storage areas ~~((shall))~~ must be posted.

(d) At no time ~~((shall))~~ will one person be permitted to work alone on a log dump, a booming or rafting grounds, or a log pond.

(3) Water log dumps. Ungrounded electrically powered hoists using handheld remote control in grounded locations, such as log dumps or mill log lifts, ~~((shall))~~ must be actuated by circuits operating at less than 50 volts to ground.

(4)~~((a))~~ A brow log, skid timbers or the equivalent ~~((shall))~~ must be installed on all log dumps.

~~((b))~~ (a) Where logs are unloaded onto skids, sufficient space ~~((shall))~~ must be provided between the top of the skids and the ground to accommodate the body of a person.

~~((c))~~ (b) All truck dumps ~~((shall))~~ must be built with not more than six inches variation of level from side to side.

(5)~~((a))~~ All truck log dumps ~~((shall))~~ must be equipped with a positive safeguard to prevent logs from leaving the load on the side opposite the brow log. Jill pokes ~~((shall))~~ must not be used on truck log dumps.

~~((b))~~ (a) Unloading lines ~~((shall))~~ must be attached and tightened or other positive safeguard in place before binder chains are released at any log dump.

~~((c))~~ (b) Stakes and chocks which trip ~~((shall))~~ must be constructed in such manner that the tripping mechanism that releases the stake or chocks is activated at the opposite side of the load being tripped.

~~((d))~~ (c) Binders ~~((shall))~~ must be released only from the side on which the unloader operates, except when released by remote control devices or except when person making release is protected by racks or stanchions or other equivalent means.

~~((e))~~ (d) Loads on which a binder is fouled by the unloading machine ~~((shall))~~ must have an extra binder or metal band of equal strength placed around the load, or the load ~~((shall))~~ must be otherwise secured so that the fouled binder can be safely removed.

~~((f))~~ (e) Unloading lines, crotch lines, or equally effective means ~~((shall))~~ must be arranged and used in a manner to minimize the possibility of any log swinging or rolling back.

(6)~~((a))~~ In unloading operations, the operator of the unloading machine ~~((shall))~~ must have an unobstructed view of the vehicle and the logs being unloaded.

~~((b))~~ (7) Unloading lines ~~((shall))~~ must be arranged so that it is not necessary for the employees to attach them from the pond or dump site of the load except when entire loads are lifted from the log-transporting vehicle.

~~((7))~~ (8) All log dumps ~~((shall))~~ must be kept reasonably free of bark and other debris.

~~((8))~~ (9) Employees ~~((shall))~~ must remain in the clear until all moving equipment has come to a complete stop.

~~((9))~~ (10) Artificial log ponds subject to unhealthy stagnation ~~((shall))~~ must be drained, cleansed, and water changed at least once every six months.

~~((10))~~ (11) All employees whose regular work requires walking on logs ~~((shall))~~ must wear spiked or calked shoes, except when working in snow.

~~((11))~~ (12) Employees whose duties require them to work from boats, floating logs, boom sticks, or walkways along or on water must be provided with and must wear appropriate buoyant devices while performing such duties.

(a) Employees are not considered exposed to the danger of drowning:

(i) When working behind standard height and strength guardrails;

(ii) When working inside operating cabs or stations which eliminate the possibility of accidentally falling into the water;

(iii) When wearing approved safety belts with lifeline attached so as to preclude the possibility of falling into the water.

(b) Prior to and after each use, personal floating devices ~~((shall))~~ must be inspected for defects which would reduce their designed effectiveness. Defective personal flotation devices ~~((shall))~~ must not be used.

(c) To meet the approved criteria required by this subsection ~~((11))~~ (12), a personal flotation device ~~((shall))~~ must be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, pursuant to 46 C.F.R. 160 (Coast Guard lifesaving equipment specifications) and 33 C.F.R. 175.23 (Coast Guard table of devices equivalent to personal flotation devices). Ski belt or inflatable type personal flotation devices are specifically prohibited.

~~((12))~~ (a) (13) Wooden pike poles ~~((shall))~~ must be of continuous, straight grained No. 1 material. Defective poles, blunt or dull pikes ~~((shall))~~ must not be used.

~~((b))~~ (14) Aluminum or other metal poles ~~((shall))~~ must not be used where hazard of coming in contact with live electric wires exists.

~~((13))~~ (a) (15) Walkways and floats ~~((shall))~~ must be provided and security anchored to provide safe passage for workers.

~~((b))~~ (a) Permanent cable swifters ~~((shall))~~ must be so arranged that it will not be necessary to roll boom sticks in order to attach or detach them.

~~((e))~~ (b) Inspection of cable or dogging lines ~~((shall))~~ must be made as necessary to determine when repair or removal from service is necessary.

~~((14)(a))~~ (16) Decks of floats or other walkways ~~((shall))~~ must be kept above the waterline at all times and ~~((shall))~~ be capable of supporting four times the load to be imposed.

~~((b))~~ (17) Floating donkeys or other power-driven machinery used on booms ~~((shall))~~ must be placed on a raft or float with enough buoyancy to keep the deck above water.

~~((15)(a))~~ (18) All regular boom sticks and foot logs ~~((shall))~~ must be reasonably straight, have all protruding knots and bark removed, and ~~((shall))~~ must be capable of supporting above the waterline at either end, any necessary weight of workers and equipment.

~~((b))~~ (a) Stiff booms ~~((shall))~~ must be two float logs wide secured by boom chains or other connecting devices, and of a width adequate for the working needs. Walking surfaces ~~((shall))~~ must be free of loose material and maintained in good repair.

~~((e))~~ (b) Boom sticks ~~((shall))~~ must be fastened together with crossties or couplings.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-56503 Log hauls. (1) Every log haul used as a walkway ~~((shall))~~ must have at least one walkway with standard railing to enable workers to stand clear of the logs in the chute. Cleats ~~((shall))~~ must be installed to provide safe footing on sloping walkways.

(2) Workers ~~((shall))~~ must not stand under or dangerously near to logs that are being hoisted vertically to the log deck.

(3)~~((a))~~ Log haul gears and bull chain drive mechanism ~~((shall))~~ must be adequately guarded for the protection of employees.

~~((b))~~ (a) Log haul bull chains or cable ~~((shall))~~ must be designed, installed, and maintained to provide a four to one safety factor for the intended load.

~~((e))~~ (b) Troughs for the return strand of log haul chains ~~((shall))~~ must be provided over passageways.

~~((d))~~ (c) Overhead protection ~~((shall))~~ must be provided for employees working below logs being moved to the log deck.

(4) Log haul controls ~~((shall))~~ must be arranged to operate from a position where the operator will at all times be in the clear of logs, machinery lines and rigging. Such controls ~~((shall))~~ must operate mechanism only when moved toward the log slip or deck.

(5) Where possible, an automatic stop ~~((shall))~~ must be installed on all log hauls. A positive stop ~~((shall))~~ must be installed on all log hauls to prevent logs from traveling too far ahead in the mill.

~~((a))~~ (a) Slip persons ~~((shall))~~ must handle pike poles in such manner as to be in the clear in case of a slip back.

~~((b))~~ (a) All sorting gaps ~~((shall))~~ must have a stiff boom on each side.

~~((e))~~ (b) The banks of the log pond in the vicinity of the log haul ~~((shall))~~ must be reinforced to prevent caving in.

AMENDATORY SECTION (Amending WSR 03-06-076, filed 3/4/03, effective 8/1/03)

WAC 296-78-56505 Boats and mechanical devices on waters. (1) The applicable provisions of the Standard for Fire Protection for Motorcraft, NFPA No. 302-1994, ~~((shall))~~ must be complied with. Prior to starting the boat motor, any spilled fuel ~~((shall))~~ must be removed and vapors ~~((shall))~~ must be exhausted from any area in which they may accumulate.

(2) The bilge area ~~((shall))~~ must be kept clean and oil, grease, fuel, or highly combustible materials ~~((shall))~~ must not be allowed to accumulate.

(3) Adequate ventilation equipment ~~((shall))~~ must be provided and used for the bilge area to prevent the accumulation of toxic or explosive gases or vapors.

(4) Adequate ventilation equipment ~~((shall))~~ must be provided and used for the cabin area on enclosed cabin-type boats to prevent an accumulation of harmful gases or vapors.

(5) Deck and cabin lighting ~~((shall))~~ must be provided and used where necessary to provide safe levels of illumination aboard boats. Boats operated during the period from sunset to sunrise, or in conditions of restricted visibility, ~~((shall))~~ must display navigation lights as required by the United States Coast Guard. Searchlights or floodlights ~~((shall))~~ must be provided to facilitate safe navigation and to illuminate working or boarding areas adjacent to the craft.

(6) Decks of pond boats ~~((shall))~~ must be covered with nonslip material. On craft used by workers wearing calked shoes, all areas where the operator or workers must stand or walk ~~((shall))~~ must be made of or be covered with wood or other suitable matting or nonslip material and such covering ~~((shall))~~ must be maintained in good condition.

(7) Each boat ~~((shall))~~ must be provided with a fire extinguisher and life ring with at least fifty feet of one-fourth inch line attached.

Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

~~((a))~~ (8) Along docks, walkways, or other fixed installations on or adjacent to open water more than five feet deep, approved life rings with at least ninety feet of one-fourth inch line attached, ~~((shall))~~ must be provided. The life rings ~~((shall))~~ must be spaced at intervals not to exceed two hundred feet and ~~((shall be))~~ kept in easily visible and readily accessible locations.

~~((b))~~ (a) When employees are assigned work at other casual locations where exposure to drowning exists, at least one approved life ring with at least ninety feet of line attached, ~~((shall))~~ must be provided in the immediate vicinity of the work assigned.

~~((e))~~ (b) When work is assigned over water where the vertical drop from the accidental fall would exceed fifty feet, special arrangements ~~((shall))~~ must be made with and approved by the department of labor and industries prior to such assignment.

~~((d))~~ (c) Lines attached to life rings on fixed locations ~~((shall))~~ must be at least ninety feet in length, at least one-fourth inch in diameter, and have a minimum breaking strength of five hundred pounds. Similar lines attached to life rings on boats ~~((shall))~~ must be at least fifty feet in length.

~~((e))~~ (d) Life rings must be United States Coast Guard approved thirty-inch size.

~~((f))~~ (e) Life rings and attached lines ~~((shall))~~ must be provided and maintained to retain their buoyancy and strength.

~~((g))~~ (f) Log broncs, boomscooters, and boomboats ~~((shall))~~ must not be loaded with personnel or equipment so as to adversely affect their stability or seaworthiness.

~~((h))~~ (g) Boats ~~((shall))~~ must not be operated at an excessive speed or handled recklessly.

~~((i))~~ (h) Boat fuel ~~((shall))~~ must be transported and stored in approved containers. Refer to WAC 296-24-58501~~((19))~~ for definition of approved.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-56507 Log decks. (1) Dry deck storage.

(a) Dry deck storage areas ~~((shall))~~ must be kept orderly and ~~((shall))~~ must be maintained in a condition which is conducive to safe operation of mobile equipment.

(b) Logs ~~((shall))~~ must be stored in stabilized piles, and roadways and traffic lanes ~~((shall))~~ must be maintained at a width adequate for safe travel of log handling equipment.

(c) Logs ~~((shall))~~ must be arranged to minimize the chance of accidentally rolling from the deck.

~~(2)((a))~~ Employees ~~((shall))~~ must not spool cable on winch or drums with their hands.

~~((b))~~ (3) Log wells ~~((shall))~~ must be provided with safeguard to prevent logs from rolling back into well off log deck.

~~((c))~~ (4) Jump skids on log decks ~~((shall))~~ must be installed in grooves in a manner that they cannot work out onto the carriage way.

~~((4)(a))~~ (5) Log decks ~~((shall))~~ must be provided with effective means to prevent logs from accidentally rolling down the deck onto the carriage or its runway.

~~((b) Swing saws:)~~ (a) Swing saws on log decks ~~((shall))~~ must be equipped with a barricade and stops for protection of employees who may be on the opposite side of the log haul chute.

~~((e))~~ (b) Drag saws. Where reciprocating log cutoff saws (drag saws) are provided, they ~~((shall))~~ must not project into walkway or aisle.

~~((d))~~ (c) Circular cutoff saws. Circular log bucking or cutoff saws ~~((shall))~~ must be so located and guarded as to allow safe entrance to and exit from the building.

~~((e))~~ (d) Entrance doorway. Where the cutoff saw partially blocks the entrance from the log haul runway the entrance ~~((shall))~~ must be guarded.

~~((5))~~ (6) A barricade or other positive stop ~~((shall))~~ must be erected between the sawyer's stand and the log deck to protect the sawyer from rolling logs. Such barricade or stop ~~((shall))~~ must be of sufficient strength to stop any log.

~~((6))~~ (7) Chains from overhead canting gear or other equipment ~~((shall))~~ must not be allowed to hang over the log deck in such manner as to endanger workers.

~~((7))~~ (8) Canting gear control levers ~~((shall))~~ must be ~~((se))~~ arranged so that they move away from the carriage to operate.

~~((8))~~ (9) Moving parts or equipment on or about log decks ~~((shall))~~ must be guarded.

~~((9))~~ (10) Peavies, canthooks and other hand tools ~~((shall))~~ must be kept in good repair at all times.

~~((10))~~ (11) Workers ~~((shall))~~ must not go below logs on decks that are likely to roll or be rolled. Means of access ~~((shall))~~ must be provided to the head rig which does not subject employees to the hazard of moving logs or equipment.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-56509 Mechanical barkers. (1) Rotary barkers. Rotary barking devices ~~((shall))~~ must be ~~((se))~~ guarded so as to protect employees from flying chips, bark, or other extraneous material.

(2) Elevating ramp. If an elevating ramp or gate is used, it ~~((shall))~~ must be provided with a safety chain, hook, or other means of suspension while employees are underneath.

(3) Area around barkers. The hazardous area around ring barkers and their conveyors ~~((shall))~~ must be fenced off or posted as a prohibited area for unauthorized persons.

(4) Enclosing hydraulic barkers. Hydraulic barkers ~~((shall))~~ must be enclosed with strong baffles at the inlet and outlet. The operator ~~((shall))~~ must be protected by adequate safety glass or equivalent.

(5) ~~((Holddown rolls:))~~ Holddown rolls ~~((shall))~~ must be installed at the infeed and outfeed sections of mechanical ring barkers to control the movement of logs.

(6) If such holddown rolls have a tendency to throw logs or chunks, horseshoe or equivalent type guards ~~((shall))~~ must be installed to contain the logs or chunks.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-56511 Head rigs and feed works. (1) A clear walkway ~~((shall))~~ must be provided along the upper side of the log deck and around the head rig unless an overhead walkway is provided.

(2) The sawyer ~~((shall))~~ must be primarily responsible for the safety of the carriage crew and off-bearers. ~~((He shall))~~ They must exercise due care in the operation of the carriage and log turning devices.

(3) Feedworks and log turning control levers ~~((shall))~~ must be ~~((se))~~ arranged so that they may be securely locked when not in use and ~~((shall))~~ must be guarded against accidental contact.

(4)~~((a))~~ A positive means ~~((shall))~~ must be provided to prevent unintended movement of the carriage. This ~~((shall))~~ must involve a control locking device, a carriage tie-down, or both.

~~((b))~~ (5) An emergency control or equally effective means ~~((shall))~~ must be provided so that the sawyer may stop the head rig section of the mill without leaving the operator station.

~~((5))~~ (6) An effective method of disengaging the head rig saws from the power unit ~~((shall))~~ must be installed on all head rigs where the power unit is not directly controlled by the sawyer. The saws ~~((shall))~~ must be disengaged from the source of power while repairs or changes are made.

~~((6))~~ (7) A shield of lexan, makrolon, merlon, plestar, or equivalent transparent material, ~~((shall))~~ must be installed between the sawyer's stand and the head saws in all circular mills. In band mills and chipper type installations, a wire screen of not less than twelve gauge wire, one-half inch mesh, mounted in a frame in compliance with chapter 296-806 WAC, Machine safety, is an acceptable substitute for the type shield required in circular mills.

~~((7))~~ (8) Safety glasses, safety shields or other suitable eye protection ~~((shall))~~ must be provided for and use by head rig off-bearers.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-56513 Log carriages. (1) Carriages upon which employees are required to work ~~((shall))~~ must be solidly decked over.

(2) Dogs. Dogging devices ~~((shall))~~ must be adequate to secure logs, cants, or boards, during sawing operations.

(3) The feed control lever of friction or belt driven carriage feed works ~~((shall))~~ must be arranged to operate away from the saws or carriage track.

(4) A quick action valve, controlled from the sawyer's stand, ~~((shall))~~ must be located in the steam line to any steam operated feed works. The valve ~~((shall))~~ must be tested daily.

(5) Valves in steam feeds ~~((shall))~~ must be closed and locked in a neutral position before the sawyer leaves his station. Leaking steam valves or piping ~~((shall))~~ must not be used on carriage drives.

~~((6))~~ (6) Where employees ride the headrig carriage, clearance of the rear edge of the carriage ~~((shall be))~~ must either not be more than two inches or ~~((shall be))~~ not less than thirty inches from the side wall of the building. The side wall ~~((shall))~~ must be boarded over smoothly to a height of not less than six feet six inches from the setter's platform and for at least the length of the carriage travel.

(a) Where the clearance is thirty inches or more the floor between the back side of the setter's platform and the wall ~~((shall))~~ must be raised to the level of the platform. The clearance between the floor edge and the platform ~~((shall))~~ must not be more than two inches.

(b) Barriers and warning signs. A barrier ~~((shall))~~ must be provided to prevent employees from entering the space necessary for travel of the carriage, with headblocks fully retracted, for the full length and extreme ends of carriage runways. Warning signs ~~((shall))~~ must be posted at possible entry points to this area.

(7) Safe access to the head rig ~~((shall))~~ must be provided.

(8) No roof truss or roof timber or other obstruction ~~((shall))~~ must be located within six feet six inches of the upper surface of the setter's platform on any carriage.

(9) Doors which lead onto a passageway at the end or side of the carriage runway ~~((shall))~~ must be provided with a handrail opposite such doorway. Handrail ~~((shall))~~ must not be less than eighteen inches from the carriage run. A warning sign ~~((shall))~~ must be posted on the entrance side of such doorways.

(10) A stop or bumper capable of stopping the loaded carriage at operating speed ~~((shall))~~ must be installed at each end of the carriage run.

(11) Rail sweeps ~~((shall))~~ must be installed in front of the front wheels in the direction of travel. Such sweeps ~~((shall))~~ must extend to within one-fourth inch of the rail.

(12) Where power operated log turners are used, carriage knees ~~((shall))~~ must be provided with goosenecks or other means of protecting the carriage crew from climbing logs.

(13) Employees ~~((shall))~~ must use a stick or wire brush to clear head blocks of debris.

(14) All weakened or broken carriage boards ~~((which))~~ that will not support the load ~~((to))~~ and will be imposed with a safety factor of 4, ~~((shall))~~ must be immediately replaced.

(15) Carriage control. A positive means ~~((shall))~~ must be provided to prevent unintended movement of the carriage. This may involve a control locking device, a carriage tie-down, or both.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-570 Band saws—Saws. (1) Band head rigs ~~((shall))~~ must be given a thorough daily inspection and any deficiency reported and corrected.

(2) Any band saw found to have developed a crack greater than one-tenth the width of the saw ~~((shall))~~ must be removed from service until the width of the saw is reduced to eliminate the crack, the cracked section is removed, or the development of the crack is arrested by welding.

(3) Band saws ~~((shall))~~ must not be continued in use of the head rig for which they have been designed after they have been reduced forty percent in width.

(4) Leather gloves, or equivalent hand protection, ~~((shall))~~ must be worn by employees while changing band saws.

(5) All head band saw wheels ~~((shall))~~ must have a minimum rim thickness of five-eighths inch, except for a distance of not to exceed one inch from the front edge of the wheel.

(6) Provisions ~~((shall))~~ must be made for alerting and warning employees before starting band head saws, and measures ~~((shall))~~ must be taken to ~~((insure))~~ ensure that all persons are in the clear.

(7) No band saw ~~((shall))~~ must be run at a peripheral speed in excess of that recommended by the manufacturer. The manufacturer's recommended maximum speed ~~((shall))~~ must be stamped in plainly legible figures on some portion of the assembly.

(8) A band wheel that has developed a crack in the rim ~~((shall))~~ must be immediately removed from service. If a crack has developed in a spoke, the wheel ~~((shall))~~ must be removed from service until repaired.

(9) All band wheels ~~((shall))~~ must be completely encased or guarded on both sides. The exposed part of the saw blade on the uptravel between the two wheels ~~((shall))~~ must be encased, and no portion of the blade exposed, except such part of the cutting edge as is essential for sawing the material at hand.

(10) All band wheel guards ~~((shall))~~ must be constructed of not less than ten U.S. gauge metal, or not less than two inch

wood material or equivalent, attached to the frames. Ventilating ports ~~((shall))~~ must not exceed 2 x 4 inches in size. Openings necessary for lubrication or repair of the saw ~~((shall))~~ must have doors or gates of equivalent strength to the remainder of the guard, and such doors or gates ~~((shall))~~ must be securely closed during operation.

(11) Every band mill ~~((shall))~~ must be equipped with a saw catcher, rest or guard of substantial construction.

(12) All band saws other than head mills ~~((shall))~~ must be enclosed or guarded except the working side of the blade between the guide and the table. The guard for the portion of the saw between the sliding guide and the upper saw wheel guard ~~((shall))~~ must be adjusted with the guide.

(13) Each gang ripper of band or straight saw type ~~((shall))~~ must have the cutting edges of the saw guarded by a hood or screen secured to the framework of the machine.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-575 Circular saws. (1) Single circular head saws. Circular head saws ~~((shall))~~ must not be operated at speeds in excess of those specified by the manufacturer. Maximum speed ~~((shall))~~ must be etched on the saw.

(2) On all circular saw mills, the horizontal distance from the side of the saw to the nearest post of the husk or frame ~~((shall))~~ must be at least one inch greater than the clear vertical distance between the collars of the top and bottom saws.

(3) Circular head saws ~~((shall))~~ must be equipped with safety guides that can be readily adjusted without use of wrench or other hand tools. Brackets or edging supports ~~((shall))~~ must be installed between the saw and the side of the husk.

(4) The upper saw of a double circular mill ~~((shall))~~ must be provided with a hood or guard. A screen or other suitable device ~~((shall))~~ must be placed so as to protect the sawyer from flying particles.

(5) All circular sawmills, where live rolls are not used behind the head saw ~~((shall))~~, must be equipped with an effective spreader or splitter. In any mill where the head saw is used for edging lumber, the splitter ~~((shall))~~ must be solid and stationary and ~~((shall))~~ must extend above the head blocks.

(6) Drag saws or circular cut-off saws ~~((shall))~~ must be ~~((so))~~ arranged ~~((that))~~ so they will not project into any passageway. When existing installations do not leave clear passage, saws ~~((shall))~~ must be fenced off in order to make it impossible for anyone to walk into them. Means to securely hold material being sawed ~~((shall))~~ must be provided wherever such material creates a hazard.

(7) All employees ~~((shall))~~ must be in the clear before starting operation of drag or swing cut-off saws.

(8) Twin circular head saws. Twin circular head saw rigs such as ~~((serag))~~ scragg saws, ~~((shall))~~ must meet the specifications for single circular head saws in subsection (1) of this section, where applicable.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-580 Edgers. (1) Edgers ~~((shall))~~ must be guarded by a metal housing of ten gauge sheet metal, ten gauge by one-half inch mesh wire, screen, or by a baffle of not less than two inch wood material.

(2) Openings in end frames ~~((shall))~~ must be enclosed with sheet metal, wire screen or wood and may be hinged or arranged to permit oiling and removal of saws.

(3) The top of the edger ~~((shall))~~ must be guarded to prevent contact by employees or debris being thrown and all chains and gears fully enclosed as required by WAC 296-78-710 of this chapter.

(4) Vertical arbor edgers installed ahead of the main saw ~~((shall))~~ must be ~~((so))~~ located and guarded ~~((that))~~ so an employee cannot contact any part of the edger saws from his normal operating position.

(5) Edgers ~~((shall))~~ must not be located in the main roll case behind the head saw.

(6) All edgers ~~((shall))~~ must be equipped with pressure feed rolls. The controls ~~((shall))~~ must be installed and located so that from the normal work station the operator can quickly stop the infeed drive without releasing the hold down tension of the pressure rolls.

(7) All edgers ~~((shall))~~ must be provided with a method of preventing or guarding against kickbacks. Finger units or dogs installed at the edger, or hinged steel plates suspended across the feed table may be used for this purpose. A kick-back barricade, in line with the edger, if fenced off may be used.

(8) Pressure and feed rolls on edgers ~~((shall))~~ must be guarded against accidental contact by means of roll covers, bars or strips. The pressure rolls ~~((shall))~~ must not be lifted while stock is being run, or while any person is in line with the feed side of the saws.

(9) Edger men ~~((shall))~~ must not raise feed rolls and reach between saws while edger is in operation.

(10) Edger men ~~((shall))~~ must not put their hands on cants being run through the edger.

(11) Live rolls and rotating powered tailing devices in back of the edger ~~((shall))~~ must operate at a speed not less than the speed of the edger feed rolls.

(12) Tables in back of edgers ~~((shall))~~ must be kept clear of cants, edgings and unnecessary debris.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-585 Equalizer saws. (1) Equalizer saws for bolts, staves, heading, etc., ~~((shall))~~ must have the saws encased, except that portion immediately adjacent to the feeding device.

(2) Feeding devices on all such equipment ~~((shall))~~ must be provided with guards to prevent contact with the feeding device by employees.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-590 Gang saws and (~~(re-saws)~~) resaws.

(1) Gang saws and (~~(re-saws shall)~~) resaws must be fully guarded or housed in accordance with conditions. Cranks, pitman rods, and other moving parts (~~(shall)~~) must be guarded.

(2) Feed rolls (~~(shall)~~) must be enclosed by a cover over the top, front, and open ends except where guarded by location. Drive mechanism to feed rolls (~~(shall)~~) must be enclosed.

(3) Feed rolls (~~(shall)~~) must be enclosed and if the operator stands within thirty inches of the feed rolls, they (~~(shall)~~) must be so guarded as to prevent operator coming into contact with them.

(4) Circular (~~(re-saws)~~) resaws or rip saws, except power feed rip saws with a roller or wheel back of the saw, (~~(shall)~~) must be provided with splitters or spreaders.

(5) A hood of metal or wood of sufficient strength to give protection against splinters or flying teeth (~~(shall)~~) must be provided over all circular rip saws.

(6) That portion of the saw extending below the table (~~(shall)~~) must be (~~(so)~~) guarded so as to prevent contact.

(7) Circular rip saws (~~(shall)~~) must be equipped with a standard anti-kickback device.

(8) Carriage cradles of whole-log sash gang saws, Swedish gangs (~~(shall)~~) must be of height to prevent logs from kicking out while being loaded.

(9) (~~(Band re-saws-)~~) Band (~~(re-saws shall)~~) resaws must meet the specifications for band head saws as required in WAC 296-78-570(7).

(10) Circular gang (~~(re-saws)~~) resaws.

(a) Banks of circular gang (~~(re-saws shall)~~) resaws must be guarded by a hood to contain teeth or debris which can be thrown by the saws.

(b) Circular gang (~~(re-saws shall)~~) resaws must be provided with safety fingers or other anti-kickback devices.

(c) Circular gang (~~(re-saws shall)~~) resaws must not be operated at speeds exceeding those recommended by the manufacturer.

(d) Feed belts and drive pulleys (~~(shall)~~) must be guarded in accordance with chapter 296-806 WAC, Machine safety.

(e) Each circular gang (~~(re-saw)~~) resaw, except self-feed saws with a live roll or wheel at back of saw, (~~(shall)~~) must be provided with spreaders.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-595 Jump saws. (1) Jump saws (~~(shall)~~) must have guards below the top of the table or roll case. A guard (~~(shall)~~) must be placed over the roll casing to prevent persons from walking into or over the saw.

(2) Jump saws, underhung swing saws, or bed trimmers (~~(shall)~~) must be (~~(so)~~) arranged (~~(that)~~) so the saws are fully enclosed when not in actual use.

(3) A positive stop (~~(shall)~~) must be installed to prevent the saw from passing the front edge of the roll case or table. The throat in the table or roll case (~~(shall)~~) must be only wide enough to permit unobstructed operation of the saw.

(4) Guards constructed of not less than two inch wood material or of heavy wire mesh mounted in a steel frame (~~(shall)~~) must be placed in front of jump saw trimmers. Stops (~~(shall)~~) must be installed to prevent timber from being thrown off the roll case.

(5) Foot treadle operated saws (~~(shall)~~) must be provided with safeguards to prevent accidental contact.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-600 Trimmer and slasher saws. (1) Trimmer (~~(of and)~~) and slasher saws (~~(shall)~~) must be guarded in front by a flat or round steel framework with a rigid metal screen or light iron bars attached thereto, or by wood baffles of not less than two inch wood material securely bolted to the frame.

Maximum speed. Trimmer saws (~~(shall)~~) must not be run at peripheral speeds in excess of those recommended by the manufacturer.

(2) Front guards for a series of saws (~~(shall)~~) must be set as close to the top of the feed table as is practical when considering the type of machine in use and the material being cut. The end saws of a series (~~(shall)~~) must be guarded or fenced off.

(3) The rear of a series of saws (~~(shall)~~) must have a stationary or swinging guard of not less than two inch wood material or equivalent the full width of the saws and as much wider as is necessary to protect persons at the rear of the trimmer.

(4) Safety stops. Automatic trimmer saws (~~(shall)~~) must be provided with safety stops or hangers to prevent saws from dropping on table.

(5) Feed chains (~~(shall)~~) must be stopped while employees are on the feed table.

(6) Spotters for trimmers or slashers (~~(shall)~~) must be provided with goggles or other eye protection when conditions so warrant.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-605 Swing saws. (1) Manually operated swing cut-off saws of the following types (~~(shall)~~) must be set up, guarded and operated in accordance with chapter 296-806 WAC, Machine safety:

(~~(*)~~) (a) Saw into which materials to be cut are fed or positioned and/or held in position by hand pressure during the cutting stroke; (~~(and/or*)~~)

(b) Saw on which the cutting stroke is propelled by hand pressure; and/or

(~~(*)~~) (c) Saw on which the operator is within arm's reach of the blade when the operator is standing at the operator's control station and the blade is fully extended to the limit of operating travel.

(2) Operators of hand operated swing saws (~~(shall)~~) must not stand directly in front of saw while making a cut.

(3) Swing cut-off saws which are fed by powered live rolls, conveyor chains and/or belts and which are operated from a remote operator's station (defined as being beyond arm's reach of the blade when the blade is fully extended to

the limit of operating travel) ~~((shall))~~ must be set up, guarded and operated in accordance with the following:

(a) Overhead swing cut-off saws ~~((shall))~~ must be guarded by a hood, which ~~((shall))~~ must cover the upper half of the cutting edge at least to the depth of the teeth.

(b) The driving belts on overhead swing cut-off saws, where exposed to contact, ~~((shall))~~ must be provided with guards as required by WAC 296-78-71505.

(c) Saws ~~((shall))~~ must be completely enclosed when in idle position.

(d) Power operated swing saws ~~((shall))~~ must have controls so arranged that the operators will not stand directly in front of saw when making cut.

(e) All swing saws ~~((shall))~~ must be equipped with a counter balance which ~~((shall))~~ must be permanently fastened to the frame of the saw and so arranged or adjusted that it will return the saw beyond the rear edge of the table or roll case without a rebounding motion. Wire rope, chain or nonmetallic rope running to a weight over a sheave ~~((shall))~~ must not be used for attaching counter balance.

(f) No swing cut-off or trim saw ~~((shall))~~ must be located directly in line with stock coming from an edger.

(g) Swing limit stops ~~((shall))~~ must be provided and so adjusted that at no time ~~((shall))~~ the forward swing of the saw extends the cutting edge of the saw beyond a line perpendicular with the edge of the saw table, roll case, guard or barrier.

(h) Saws that are fed into the cut by means of air, steam, hydraulic cylinders, or other power device or arrangement ~~((shall))~~ must be designed so they can be locked or rendered inoperative.

(i) Foot treadle operated saws ~~((shall))~~ must be provided with safeguards to prevent accidental contact.

(j) Swing saws on log decks ~~((shall))~~ must be equipped with a positive stop for the protection of persons who may be on the opposite side of the log haul chute.

(k) Tables or roll casings for swing saws ~~((shall))~~ must be provided with stops or lineup rail to prevent material being pushed off on opposite side.

(4) Operators of hand operated swing saws ~~((shall))~~ must not stand directly in front of saw while making cut.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-610 Circular saws, speeds, repairs. (1) Circular saws ~~((shall))~~ must not be operated at speeds in excess of that specified by the manufacturer. Speeds ~~((shall))~~ must be etched on all new saws. When saws are repaired, remanufactured or retensioned in any way to change their operating speeds, such change of speed ~~((shall))~~ must be etched on the saw. These etched speeds ~~((shall))~~ must not be exceeded.

(2) Circular saws ~~((shall))~~ must be inspected for cracks each time that the teeth are filed or set.

(3) A circular saw ~~((shall))~~ must be discontinued from use until properly repaired when found to have developed a crack equal to the length indicated in the following table:

<u>Length of Crack</u>	<u>Diameter</u>
1/2 -inch.	Up to 12"
1 -inch.	Over 12" to 24"
1-1/2 -inch.	Over 24" to 36"
2 -inch.	Over 36" to 48"
2-1/2 -inch.	Over 48" to 60"
3 -inch.	Over 60"

(4) Welding or slotting of cracked saws ~~((shall))~~ must be done by a sawsmith under a procedure recommended by the saw manufacturer. Holes ~~((shall))~~ must not be drilled in saws as a means of arresting cracks. After saws are repaired they ~~((shall))~~ must be retensioned. Unless a sawsmith is employed, saws ~~((shall))~~ must be returned to the manufacturer for welding or tensioning.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-615 Saw filing and grinding rooms and equipment. (1) Approaches to filing rooms ~~((shall))~~ must be kept free from material and equipment at all times.

(2) Enclosed grinding and filing rooms ~~((shall))~~ must be ventilated as specified in the general occupational health standard, WAC 296-62-110 through 296-62-11019.

(3) Each filing and grinding room ~~((shall))~~ must be provided with two exits so arranged as to permit easy escape in case of fire.

(4) Floors ~~((shall))~~ must be cleaned regularly and ~~((shall))~~ must be kept free from oil, grease and other materials that might cause employees to slip or fall.

(5) Flooring around machines ~~((shall))~~ must be kept in good repair at all times.

(6) Saw grinding machine belts ~~((shall))~~ must be provided with guards where these belts pass through the frame of the machine.

(7) All grinding wheels on such machines ~~((shall))~~ must be provided with a metal retaining hood which ~~((shall))~~ must also cover the arbor ends if they are exposed to contact.

(8) Filing room employees ~~((shall))~~ must be provided with goggles, face shields, or other necessary protective equipment and are required to wear the same.

(9) Guarding and mounting of abrasive wheels ~~((shall))~~ must be in accordance with chapter 296-806 WAC, Machine safety.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-620 Miscellaneous woodworking machines—Planers, stickers, molders, matchers. (1) Each planing, molding, sticking and matching machine ~~((shall))~~ must have all cutting heads, and saws if used, covered by a solid metal guard. If such guard is constructed of sheet metal, the material used ~~((shall))~~ must be not less than one-sixteenth inch in thickness, and if cast iron is used, it ~~((shall))~~ must be not less than three-sixteenths inch in thickness.

(2) Planers, stickers, molding, sticking and matching machines ~~((shall))~~ must be provided with exhaust fans, hoods and dust conveyors to remove the harmful dusts, etc., from

the vicinity of the operator. Such hoods may be arranged to serve as guards for cutting heads.

(3) Planers and other machinery or equipment ~~((shall))~~ must not be oiled while in motion, unless provided with guards or other devices to permit oiling without any possibility of contact with moving parts of machinery.

(4) Feed rolls ~~((shall))~~ must be guarded by means of roll covers, bars or strips, attached to the roll frame in such manner as to remain in adjustment for any thickness of lumber.

(5)~~((a))~~ Levers or controls ~~((shall))~~ must be ~~((so))~~ arranged or guarded so as to prevent accidental operation of machines.

~~((b))~~ (a) Foot treadle operated machines ~~((shall))~~ must have a treadle guard fastened over the treadle.

~~((c))~~ (b) Locks, blocks, or other devices ~~((shall))~~ must be provided for positive immobilization of machine controls while repairs or adjustments are being made.

(6) Side head hoods ~~((shall))~~ must be of sufficient height to safeguard the head set screw.

(7) Side heads ~~((shall))~~ must not be adjusted while the machine is in operation, except when extension adjusting devices are provided.

(8) Side belt and pulley guards ~~((shall))~~ must be kept in place at all times the machine is in motion.

(9) All universal joints ~~((shall))~~ must be enclosed.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-625 Planers (stave and headings). (1) Each planer (stave and heading) ~~((shall))~~ must have all cutting heads, and saws if used, covered by a solid metal guard.

(2) Stave and heading planers ~~((shall))~~ must be provided with exhaust fans, hoods and dust conveyors to remove the harmful dusts, etc., from the vicinity of the operator. Such hoods may be arranged to serve as guards for cutting heads.

(3) Sectional feed rolls should be provided. Where solid feed rolls are used, a sectional finger device (or other means equally effective) ~~((shall))~~ must be provided to prevent kick-backs.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-630 Stave croziers. (1) Stave croziers ~~((shall))~~ must have the heads guarded completely by the exhaust hood or other device, except that portion which actually ~~((embeds))~~ embeds itself in the stock.

(2) Each stave crozier ~~((shall))~~ must have all feed chains and sprockets completely enclosed.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-635 Jointers. (1) Each hand feed jointer or buzz planer with horizontal head ~~((shall))~~ must be provided with an automatic guard over the cutting head both in front of and in back of the guide.

(2) Each jointer or buzz planer with horizontal head ~~((shall))~~ must be equipped with a cylindrical cutting head, the throat of which ~~((shall))~~ must not exceed three-eighths inch

in depth or one-half inch in width. The knife projection ~~((shall))~~ must not exceed one-eighth inch beyond the cylindrical body of the head.

(3) The opening in the table ~~((shall))~~ must be kept as small as possible. The clearance between the edge of the rear table and the cutter head ~~((shall))~~ must be not more than one-eighth inch. The table throat opening ~~((shall))~~ must be not more than two and one-half inches when tables are set or aligned with each other for zero cut.

(4) Each jointer or buzz planer with vertical head ~~((shall))~~ must be guarded by an exhaust hood or other approved device which ~~((shall))~~ completely encloses the revolving head except for a slot sufficiently wide to permit the application of material. The guard ~~((shall))~~ must effectively protect the operator's hand from coming in contact with the revolving knives. The guard ~~((shall))~~ must automatically adjust itself to cover the unused portion of the head and ~~((shall))~~ must remain in contact with the material at all times.

(5) Push sticks ~~((shall))~~ must be provided and used for feeding stock through hand operated jointers or buzz planers.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-640 Jointers (stave and heading). (1) Stave and heading jointers and matchers ~~((shall))~~ must have the heads guarded completely by the exhaust hood or other device, except that portion where the stock is applied.

(2) Foot power stave jointing machines ~~((shall))~~ must have the knife effectively guarded to prevent the operator's fingers from coming in contact with it.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-645 Wood shapers. (1) The cutting head of each wood shaper, hand feed panel raiser, or other similar machine not automatically fed, ~~((shall))~~ must be guarded with a cage or pulley guard or other device so designed as to keep the operator's hands away from the cutting edge. In no case ~~((shall))~~ will a warning device of leather or other material attached to the spindle be acceptable. Cylindrical heads ~~((shall))~~ must be used wherever the nature of the work permits. The diameter of circular shaper guards ~~((shall))~~ must be not less than the greatest diameter of the cutter.

(2) All double spindle shapers ~~((shall))~~ must be provided with a spindle starting and stopping device for each spindle or provision ~~((shall))~~ must be made that only one spindle operate at any one time.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-650 Boring and mortising machines. (1) Boring and mortising machines ~~((shall))~~ must be provided with safety bit chucks without projecting set screws. Automatic machines ~~((shall))~~ must be provided with point of operation guards. When necessary to prevent material from revolving with the bit, clamps or stops ~~((shall))~~ must be provided and used to hold material firmly against the guides.

(2) The requirements of WAC 296-806-48048, Make sure boring and mortising machines meet these requirements, ~~((shall))~~ must be applicable to boring and mortising machines.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-655 Tenoning machines. (1) Each tenoning machine ~~((shall))~~ must have all cutting heads, saws if used, and all exposed moving parts guarded. In the case of cutting heads and saws, the guard ~~((shall))~~ must be of solid metal.

(2) If sheet metal is used, it ~~((shall be))~~ must not be less than ten U.S. gauge in thickness. If cast metal is used, it ~~((shall be))~~ must not be less than three-sixteenths inch thick, or if aluminum is used, it ~~((shall be))~~ must not be less than five-eighths inch thick. The hood of the exhaust system may form part or all of the guard. When so used, the hood ~~((shall))~~ must be constructed of metal of a thickness not less than that specified herein.

(3) Feed chains and sprockets of all double end tenoning machines ~~((shall))~~ must be completely enclosed, except that portion of chain used for conveying stock. At rear ends of frames over which the feed conveyors run, sprockets and chains ~~((shall))~~ must be guarded at the sides by plates projecting beyond the periphery of sprockets and ends of lugs.

(4) The rear end of the frame over which the feed conveyors run ~~((shall))~~ must be so extended that the material as it leaves the machine will be guided to a point within easy reach of the person removing stock at the rear of the tenoner.

(5) Single end tenoners, hand fed, ~~((shall))~~ must have a piece of sheet metal placed so that the operator's hands cannot slip off the lever handle into the tool in passing. Such guard ~~((shall))~~ must be fastened to the lever.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-660 Lathe (pail and barrel). (1) Each profile, swing-head and back-knife lathe ~~((shall))~~ must have all cutting heads covered by a solid metal guard.

(2) If sheet metal is used, it ~~((shall))~~ must be not less than ten U.S. gauge in thickness. If cast metal is used, it ~~((shall))~~ must be not less than three-sixteenths inch thick, or if aluminum is used, it ~~((shall be))~~ must not be less than five-eighths inch thick. The hood of the exhaust system may form part or all of the guard. When so used, the hood ~~((shall))~~ must be constructed of metal of a thickness not less than that specified above.

(3) Pail and barrel lathes ~~((shall))~~ must be guarded in accordance with the specifications for profile and back-knife lathes insofar as they are applicable.

(4) The requirements of WAC 296-806-450, Lathes, ~~((shall))~~ must be applicable to pail and barrel lathes.

AMENDATORY SECTION (Amending WSR 05-20-055, filed 10/3/05, effective 12/1/05)

WAC 296-78-665 Sanding machines. (1) Each belt sanding machine ~~((shall))~~ must have both pulleys enclosed in

such a manner as to guard the points where the belt runs onto the pulleys. The edges of the unused run of belt ~~((shall))~~ must be enclosed or otherwise guarded from contact by employees.

(2) Each drum sanding machine ~~((shall))~~ must be provided with a guard so arranged as to completely enclose the revolving drum except such portion required for the application of the material to be finished. Guards with hinges to facilitate the insertion of sandpaper may be installed. The exhaust hood may form part or all of this guard. When so used, the hood ~~((shall))~~ must conform to the specifications as given under exhaust systems in WAC 296-78-710.

(3) All standard stationary sanding machines ~~((shall))~~ must be provided with exhaust systems in conformity with the section of this code dealing with exhaust systems.

(4) All portable sanding machines ~~((shall))~~ must be provided with means of removing excessive dust, or employees using equipment ~~((shall))~~ must be provided with such necessary respiratory protective equipment as will conform to the requirements of chapter 296-842 WAC, Respirators.

(5) The requirements of WAC 296-806-475, sanding machines, ~~((shall))~~ must be applicable to sanding machines.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-78-670 Glue machines. (1) Personal protective equipment as required by the safety and health core rules, WAC 296-800-160, and the general occupational health standard, WAC 296-62-11021, and proper washing facilities with noncaustic soap and sterilizers, ~~((shall))~~ must be provided for all employees handling glue. Rubber gloves and other personal equipment must be sterilized when transferred from one person to another.

(2) Glue spreaders ~~((shall))~~ must be enclosed on the in-running side, leaving only sufficient space to insert the stock.

(3) All glue spreaders ~~((shall))~~ must be equipped with a panic bar or equivalent type device that can be reached from either the infeed or outfeed side of the spreader to shut off the power in an emergency situation. Such device ~~((shall))~~ must be installed on existing glue spreaders no later than April 1, 1982, and be standard equipment on any glue spreader purchased after January 1, 1982.

(4) All glue mixing and handling rooms where located above work areas ~~((shall))~~ must have water tight floors.

(5) All glue rooms ~~((shall))~~ must be provided with ventilation in accordance with WAC 296-62-110 through 296-62-11013, of the general occupational health standard.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-675 Lath mills. (1) Lath mills ~~((shall))~~ must be so arranged that stock pickers ~~((shall))~~ must be protected from slabs and blocks from slasher and trimmers.

(2) Bolters and lath machines ~~((shall))~~ must be provided with a wall or shield of not less than two inch wood material or equivalent, constructed in front of the machines, to protect stock pickers and passing employees from kickbacks.

(3) Lath bolters and lath mills ~~((shall))~~ must have all feed rolls, belts, gears and moving parts provided with approved

guards. Feed chains ~~((shall))~~ must be guarded to as low a point as the maximum height of the stock will permit.

~~((4))~~~~((a))~~ Lath bolters and lath mill saws ~~((shall))~~ must be provided with a sheet metal guard not less than one-eighth inch thick, or a cast iron guard not less than three-sixteenths inch thick, or equivalent. These hoods may be hinged so that they can be turned back to permit changing of the saws.

~~((5))~~ ~~((a))~~ A metal plate baffle, finger device or other device, ~~((shall))~~ must be installed to prevent kickbacks.

~~((5))~~~~((a))~~ ~~((6))~~ The feed rolls on bolters or lath mills ~~((shall))~~ must not be raised while any employee is in line with the saws.

~~((6))~~ ~~((a))~~ ~~((7))~~ The stock ~~((shall))~~ must be pushed through the saws with another piece of stock or push stick.

~~((6))~~~~((a))~~ ~~((8))~~ The lath trimmer ~~((shall))~~ must be provided with guards on the ends, the top and the rear so designed as to contain debris and prevent employee contact with the saw. The belt drive ~~((shall))~~ must be provided with guards as required by WAC 296-78-710.

~~((6))~~ ~~((a))~~ ~~((9))~~ The entire top half of all trimmer saws ~~((shall))~~ must be provided with guards. The guards ~~((shall))~~ must be so adjusted as to prevent employees from accidentally contacting saws.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-680 Veneer and plywood plants—Peeling and barking. (1) Where peeling or barking pits are located directly under the log cranes, logs ~~((shall))~~ must not be moved over workers.

(2) Single spiked hooks without a bell ~~((shall))~~ must not be used for handling logs. Hooks ~~((shall))~~ must be equipped with hand holds and ~~((shall))~~ must be maintained in condition to safely perform the job application.

(3) Mechanical barking devices ~~((shall))~~ must be ~~((so))~~ guarded so as to protect employees from flying chips, bark or other matter.

(4) Logs ~~((shall))~~ must not be removed from the barker until the barking head has ceased to revolve, unless the barker is so designed and arranged that the barking head will not create or constitute a hazard to employees.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-685 Veneer lathe. (1) The elevating ramp (gate) ~~((shall))~~ must be provided with a safety chain and hook or other positive means of suspension while employees are working underneath same.

(2) The area under the tipple from lathe to stock trays ~~((shall))~~ must be provided with railings or other suitable means of preventing employees from entering this area, if access is not prevented by the construction of the machine and employees can enter this area.

(3) Catwalks ~~((shall))~~ must be provided along stock trays so that employees will not have to climb on the sides of trays to straighten stock.

(4) Any section of stock trays ~~((shall))~~ must be locked out or ~~((shall))~~ must have an operator stationed at starting controls while stock is being removed or adjusted.

(5) Guards which will cover the cutting edge of veneer lathe and clipper blades ~~((shall))~~ must be provided and used while such blades are being transported about premises.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-690 Veneer slicer and cutter. (1) Each veneer slicer and each rotary veneer cutter ~~((shall))~~ must have all revolving and other moving knives provided with guards.

(2) The requirements of chapter 296-806 WAC, Machine safety, ~~((shall))~~ must be applicable to veneer slicers and cutters.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-695 Veneer clipper. (1) Each veneer clipper ~~((shall))~~ must have either automatic feed or ~~((shall))~~ must be provided with a guard ~~((which))~~ that will make it impossible to place any portion of the hand under the knife while feeding stock. Where practicable, such guard ~~((shall))~~ must be of the vertical finger type.

(2) The rear of each manually operated clipper ~~((shall))~~ must be guarded either by a screen or vertical finger guard which ~~((shall))~~ must make it impossible for any portion of the hand to be placed under the knife while removing clipped stock.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-700 Veneer wringer (swede). The entry side of each veneer wringer other than glue spreader ~~((shall))~~ must be enclosed, leaving only sufficient space to insert stock. A guard ~~((shall))~~ must be provided to prevent the veneer from overriding the top roll and kicking back.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-705 The shake and shingle industry. The following terms and standards ~~((shall))~~ will apply only in the manufacturing of shakes and shingles and these requirements ~~((shall))~~ will take precedence over other sawmill and woodworking standards.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-70501 Definitions—Terms, general. ~~((1))~~ Block(s) ~~((—))~~. Those sections of a log cut in various lengths.

~~((2))~~ Block(s) ~~((—))~~ and ~~((—))~~ bolt(s) ~~((—))~~. May be considered to be synonymous.

~~((3))~~ Clipper saw ~~((—))~~. A circular saw used to trim manufactured shingles.

~~((4))~~ Groover ~~((—))~~. A cylinder-type knife (knives) similar to a planer knife (knives), used to cut grooves into the face surface of shakes or shingles.

~~((5))~~ Hip~~(())~~ and ~~(())~~ ridge saw~~(())~~. A circular saw used to cut various angles on the side edge of shakes or shingles.

~~((6))~~ Johnson bar~~(())~~. A shaft used to control the feed of the carriage.

~~((7))~~ Knee bolter circular saw~~(())~~. A stationary circular saw used to trim and debark blocks (the blocks are manually maneuvered onto a carriage and fed into a saw).

~~((8))~~ Log haul~~(())~~. A power conveyor used to move logs to mill.

~~((9))~~ Packers~~(())~~. Employees who pack the manufactured shakes or shingles into bundles.

~~((10))~~ Panagraph power splitter~~(())~~. A hydraulically operated wedge, manually positioned into place, used to split blocks.

~~((11))~~ Power saw splitter~~(())~~. A stationary circular saw used to split (saw) blocks, (the blocks are manually maneuvered onto a carriage and fed into the saw).

~~((12))~~ Set works~~(())~~. A component of the shingle machine, located on the machine frame, used to control the thickness of each shingle being manufactured.

~~((13))~~ Shake machine~~(())~~. A band saw used to cut shake blanks into manufactured shakes.

~~((14))~~ Shake splitter~~(())~~. A stationary hydraulically operated wedge, manually controlled, used to split shake blocks into shake blanks or boards.

~~((15))~~ Shim saw~~(())~~. A circular saw used to ~~((re-cut))~~ recut manufactured shingles into narrow widths.

~~((16))~~ Shingle machine~~(())~~. A machine used to manufacture shingles; composed of a feed, set works, and carriage system, all functioning in relation to a circular saw.

~~((17))~~ Shingle saw~~(())~~. A circular saw used to cut shingles from blocks.

~~((18))~~ Spault~~(())~~. The first and last section(s) of a block as it is cut into shingles.

~~((19))~~ Spault catcher~~(())~~. A device located on the shingle machine next to the solid feed rolls, used to hold the last section of each block being cut (called a spault), in place.

~~((20))~~ Track or swing cutoff saw~~(())~~. A circular saw used to cut blocks from a log.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-70503 Shake and shingle machinery—General. (1) Track or swing cutoff circular saw.

(a) Manually operated track or swing circular cutoff saws of the following types ~~((shall))~~ must be set up, guarded and operated in accordance with chapter 296-806 WAC, Machine safety:

~~(())~~ (i) Saws into which materials to be cut are fed or positioned and/or held in position by hand pressure during the cutting stroke; ~~((and))~~

(ii) Saws on which the cutting stroke is propelled by manual (hand) pressure; and

~~(())~~ (iii) Saws on which the operator is within arm's reach of the blade when the blade is fully extended to the limit of operating travel and the operator is standing at the operator's normal control station/location.

(b) Large track or swing circular cutoff saws into which materials to be cut are fed by powered live rolls, conveyor belts and/or chains and which are operated from a remote operator's control station, defined as beyond arm's reach when the blade is fully extended to the limit of operating travel, ~~((shall))~~ must be set up, guarded and operated in accordance with the following:

(i) A power operated track or swing cutoff circular saw ~~((shall))~~ must have controls so arranged that operators are not positioned directly in front of the saw while making a cut.

(ii) All track or swing cutoff circular saws ~~((shall))~~ must be completely encased or guarded when the saw is in the retract position, except for that portion of the guard that must be left open for the operation of the saw.

(iii) Track or swing cutoff circular saw guards ~~((shall))~~ must be constructed of sheet metal not less than one-eighth inch thick, or a wood guard of not less than nominal two inch thick wood material, or equivalent.

Hinged or removable doors or gates will be permitted where necessary to permit adjusting and oiling.

(iv) The driving belt(s) on the track or swing cutoff circular saw ~~((shall))~~ must be guarded in accordance with chapter 296-806 WAC, Machine safety.

(v) A safety catch ~~((shall))~~ must be provided to prevent the track cutoff saw from leaving the track.

(2) Overhead deck splitter - Panagraph.

(a) Panagraph splitters ~~((shall))~~ must have a shroud incorporated on the upper pressure plate to eliminate the possibility of the splitter moving from the operating area. This shroud ~~((shall))~~ must be constructed of solid design with a minimum width of three inches and a minimum thickness of three-eighths inch.

(b) Mechanically operated overhead splitters ~~((shall))~~ must have handles moving opposite the stroke of the piston.

(c) When the leading edge of the panagraph splitter is completely extended, the maximum clearance from the deck to the splitting edge ~~((shall))~~ must be two inches.

(3) Power splitter saw. Power splitters ~~((shall))~~ must have spreaders behind the saw to prevent materials from squeezing the saw or being thrown back on the operator. The top of the saw ~~((shall))~~ must be completely covered.

(4) Knee bolter circular saw.

(a) A safety catch ~~((shall))~~ must be provided to prevent the bolter carriage from leaving the track.

(b) Bolter saws ~~((shall))~~ must be provided with a canopy guard of sheet metal not less than one-eighth inch thick, or cast iron guard not less than three-sixteenths inch thick or a wood guard of not less than nominal four inch thick wood material or equivalent.

The bolter canopy guard ~~((shall))~~ must completely enclose the rear portion of the saw. It ~~((shall))~~ must be so arranged and adjusted as to cover the front of the saw; not to exceed twenty inches from the top of the carriage to the bottom of the guard on sixteen inch and eighteen inch block and twenty-six inches on twenty-four inch blocks, of the material being cut.

(c) Bolter saws ~~((shall))~~ must be provided with wipers of belting or other suitable material. These wipers ~~((shall))~~ must be installed on both sides of the saw in such a manner as to deflect knots, chips, slivers, etc., that are carried by the saw.

(d) A positive device ((~~shall~~)) must be provided and used to manually lock and hold the feed table in the neutral position when not in use.

(e) That portion of all bolter saws which is below and behind the saw table ((~~shall~~)) must be guarded by the exhaust hood or other device. Hinged or removable doors or gates will be permitted where necessary to permit adjusting and oiling.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-70505 Shake machinery. (1) Shake splitters.

(a) A positive deenergizing device ((~~shall~~)) must be provided within ready reach of each shake splitter operator.

(b) Each shake splitter ((~~shall~~)) must be provided with an adjustable stroke limiter to eliminate the splitting blade from striking the table.

(c) All splitters ((~~shall~~)) must have a maximum clearance of four inches, from the splitting edge to the table surface, when the splitter is in the extended position.

(d) All splitter tables ((~~shall~~)) must have a friction surface to reduce kick out of the material being split.

(e) Shake splitters ((~~shall~~)) must not be operated at a speed that would cause chunks to be thrown in such a manner as to create a hazard.

(f) The use of foot pedal (treadle) mechanisms ((~~shall~~)) must be provided with protection to prevent unintended operation from falling or moving objects or by accidental stepping onto the pedal.

(i) The pedal ((~~shall~~)) must have a nonslip surface.

(ii) The pedal return spring ((~~shall~~)) must be of the compression type, operating on a rod or guided within a hole or tube, or designed to prevent interleaving of spring coils in event of breakage.

(iii) If pedal counterweights are provided, the path of the travel of the weight ((~~shall~~)) must be enclosed.

(2) Shake saw guards.

(a) Every shake band saw ((~~shall~~)) must be equipped with a saw guard on both sides of the blade down to the top side of the guide.

(b) The outside saw guard ((~~shall~~)) must extend a minimum of three and one-half inches below the bottom edge of the saw guide.

(c) The maximum opening between the saw guide and table rolls ((~~shall~~)) must be fifteen inches.

(3) Shake saw band wheel guards.

(a) The band wheels on all shake band saws ((~~shall~~)) must be completely encased or guarded on both sides. The guards ((~~shall~~)) must be constructed of not less than No. 14 U.S. gauge metal or material equal in strength.

(b) The metal doors((;)) on such guards((~~shall~~)) must have a wood liner of a minimum thickness of one-half inch.

(4) Shake saw band wheel speeds and maintenance.

(a) No band wheel ((~~shall~~)) must be run at a peripheral speed in excess of that recommended by the manufacturer.

(b) Each band wheel ((~~shall~~)) must be carefully inspected at least once a month by management.

Any band wheel in which a crack is found in the rim or in a spoke ((~~shall~~)) must be immediately discontinued from service until properly repaired.

(c) Each band saw frame ((~~shall~~)) must be provided with a tension indicator.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-70507 Upright shingle machine. (1) Upright shingle saw guard.

(a) Every shingle machine carriage ((~~shall~~)) must be equipped with a hand guard which:

(i) Projects at least one inch beyond the cutting edge of the saw.

(ii) ((~~Shall~~)) Must be located not more than one-half inch from the side of the saw blade.

(b) Shingle saw guards ((~~shall~~)) must have a rim guard ((~~so~~)) designed and installed ((~~as~~)) to prevent chips and knots from flying from the saws. Such guards ((~~shall~~)) must cover the edge of the saw to at least the depth of the teeth, except such part of the cutting edge as is essential for sawing the material.

(c) Saw arbors and couplings ((~~shall~~)) must be guarded to prevent contact.

(d) Every part of a clipper saw blade, except ((~~that~~)) the part which is exposed to trim shingles, ((~~shall~~)) must be enclosed by a guard((~~so~~)) designed and installed to prevent contact with the clipper saw. An additional guard ((~~shall~~)) must be installed not more than four inches above the clipper board and not more than one-half inch from the vertical plane of the saw.

(e) The underside of clipper saw boards ((~~shall~~)) must be equipped with a finger guard to effectively protect the operator's fingers. The guard ((~~shall~~)) must be a minimum of five inches long and one and one-quarter inches deep.

(2) Upright carriage guards.

(a) Automatic revolving cam set works and rocker arms, on machine frame, ((~~shall~~)) must be guarded where exposed to contact.

(b) The spault catchers ((~~shall be~~)) must not be less than three-sixteenths inch thick and kept sharp at all times. Missing teeth ((~~shall~~)) must be replaced.

(3) Carriage feed works.

(a) The pinion gear, bull wheel and Johnson bar, operating the saw carriage, ((~~shall~~)) must be guarded where exposed to contact.

(b) Each shingle machine clutch treadle ((~~shall~~)) must be arranged so that it is necessary to manually operate the treadle to start the machine. Devices which start the machine when the jaw treadle is released ((~~shall~~)) must not be installed or used. The carriage ((~~shall~~)) must have a brake to hold it in a neutral position.

(c) Carriage speed ((~~shall~~)) must not exceed thirty-four strokes per minute.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-70509 Related shake and shingle sawing machinery. (1) Flat or taper saw. A wood or metal guard

or its equivalent ~~((shall))~~ must be secured to the sliding table at the side nearest the sawyer to protect him from contact with the cutting edge of the saw when a block is not in the cut.

(2) Hip and ridge saws. The hip and ridge saws ~~((shall))~~ must be guarded with a hood-like device. This guard ~~((shall))~~ must cover that portion of the saw not needed to cut the material, located above the cutting table.

(a) The remaining portion of the saw, located below the table, ~~((shall))~~ must be guarded to prevent contact by employees.

(b) The hip and ridge guarding standard is applicable to both shake and shingle hip and ridge saws.

(3) Shim stock saws. The top ends and sides of the shim stock saws ~~((shall))~~ must be guarded. All shim stock saw power transmission mechanism ~~((shall))~~ must be guarded.

(4) Shake or shingle groover. The top ends and sides of the groover, ~~((to include))~~ including the press rolls, ~~((shall))~~ must be guarded to contain material or debris which can be thrown and to prevent contact. All groover machine power transmission mechanism ~~((shall))~~ must be guarded in compliance with WAC 296-78-710.

(5) Circular saws, speeds and repairs.

(a) Maximum allowable speeds.

(i) No circular saw ~~((shall))~~ must be run at a speed in excess of that recommended by the manufacturer.

(ii) Such speed ~~((shall))~~ must be etched or otherwise permanently marked on the blade, and that speed ~~((shall))~~ must not be exceeded.

(b) Repairs and reconditions.

(i) Shingle saws, when reduced in size to less than forty inches in diameter ~~((shall))~~, must be discontinued from service as shingle saws on upright or vertical machines.

(ii) Shingle saws may be reconditioned for use as clipper saws provided the surface is reground and the proper balance attained.

(iii) Shingle saws may be used to no less than thirty-six inches on flat or taper saw machines.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-70511 Safety rules. (1) General.

(a) Workers ~~((shall))~~ must not leave shingle machines unattended while the carriage is in motion.

(b) Shingle blocks ~~((shall))~~ must not be piled more than one tier high on tables or roll cases. Chunks may be placed horizontally one tier high on top of shingle blocks. Shingle blocks ~~((shall))~~ must be piled in a stable manner, not more than seventy-two inches high, within the immediate working area of the shingle sawyer or the area ~~((shall))~~ must be barricaded.

(c) Provisions ~~((shall))~~ must be made to prevent blocks from falling into the packing area.

(d) On each machine operated by electric motors, positive means ~~((shall))~~ must be provided for rendering such controls or devices inoperative while repairs or adjustments are being made to the machines they control.

(e) Workers ~~((shall))~~ must not stand on top of blocks while in the process of splitting other blocks into bolts.

(2) Jointers (shingle). Shingle jointers ~~((shall))~~ must have the front, or cutting face of the knives, housed except for a narrow slot through which the shingles may be fed against the knives.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-78-71001 General. (1) Construction when not specifically covered in these standards ~~((shall))~~, must be governed by such other standards adopted by the department of labor and industries as may apply.

(2) All buildings, docks, tramways, walkways, log dumps and other structures ~~((shall be so))~~ must be designed, constructed, and maintained ~~((as))~~ to provide a safety factor of four. This means that all members ~~((shall))~~ must be capable of supporting four times the maximum load to be imposed. This provision refers to buildings, docks and so forth designed and constructed subsequent to the effective date of these standards and also refers in all cases where either complete or major changes or repairs are made to such buildings, docks, tramways, walkways, log dumps and other structures.

(3) Basements on ground floors under mills ~~((shall))~~ must be evenly surfaced, free from unnecessary obstructions and debris, and provided with lighting facilities in compliance with the requirements of the safety and health core rules, WAC 296-800-210.

(4) All engines, motors, transmission machinery or operating equipment installed in mill basements or ground floors ~~((shall))~~ must be equipped with standard safeguards for the protection of workers.

(5) Flooring of buildings, ramps and walkways not subject to supporting motive equipment ~~((shall be of))~~ must not be of less than two-inch wood planking or material of equivalent structural strength.

(6) Flooring of buildings, ramps, docks, trestles and other structures required to support motive equipment ~~((shall be of))~~ must not be of less than full two and one-half inch wood planing or material of equivalent structural strength. However, where flooring is covered by steel floor plates, two inch wood planking or material of equivalent structural strength may be used.

(7) Walkways, docks, and platforms.

(a) Walkways, docks and platforms ~~((shall))~~ must be constructed and maintained in accordance with the requirements of WAC 296-24-735 through 296-24-75011 and WAC 296-800-270.

(b) Maintenance. Walkways ~~((shall))~~ must be evenly floored and kept in good repair.

(c) Where elevated platforms are used, they ~~((shall))~~ must be equipped with stairways or ladders in accordance with WAC 296-24-765 through 296-24-81013, WAC 296-800-250 and chapter 296-876 WAC, Ladders, portable and fixed.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-78-71003 Floor and wall openings. (1) All floor and wall openings, either temporary or permanent,

((shall)) must be protected as required by WAC 296-24-750 through 296-24-75011 and WAC 296-800-260.

(2) The area under floor openings ((shall)) must, where practical, be fenced off. When this is not practical, the areas ((shall)) must be plainly marked with yellow lines and tell-tails ((shall)) must be installed to hang within five and one-half feet of the ground or floor level.

(3) Where floor openings are used to drop materials from one level to another, audible warning systems ((shall)) must be installed and used to indicate to employees on the lower level that material is to be dropped.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-71005 Floors, docks, platforms and runways. (1) Faces of docks except on loading and unloading sides of rail and truck loading platforms, and runways used for the operation of lift trucks and other vehicles ((shall)) must have a guard or shear timber eight by eight inches set over three inch blocks and securely fastened to the floor by bolts of not less than five-eighths inch diameter.

(2) The flooring of buildings, docks and passageways ((shall)) must be kept in good repair at all times. When a hazardous condition develops that cannot be immediately repaired, the area shall be fenced off and not used until adequate repairs are made.

(3) All working areas ((shall)) must be kept free from unnecessary obstruction and debris.

(4) Floors around machines and other places where workers are required to stand ((shall)) must be provided with effective means to prevent slipping.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-71007 Footwalks and passageways. (1) All footwalks and passageways subject to slipping hazards due to peculiarities of conditions or processes of the operation ((shall)) must be provided with nonslip surfaces.

(2) Walkways in accordance with WAC 296-78-71001 (8) ((shall)) must be provided over roll casings, transfer tables, conveyors or other moving parts except ((where)) when stepping over such equipment is not in connection with usual and necessary traffic.

(3) Walkways alongside of sorting tables ((shall)) must be of sufficient width to provide a safe working area. Such walkways ((shall)) must be evenly floored and kept in good repair at all times. They ((shall)) must be kept free from obstructions and debris.

(4) When employees are required to clear plug-ups in veneer trays or lumber sorting trays, adequate walkways with standard guardrails ((shall)) must be provided for access to the trays whenever possible. When walkways are not provided, safety belts or harnesses with lanyards, tied off to substantial anchorages, ((shall)) must be provided and used at all times.

(5) Walkways and stairways with standard hand rails ((shall)) must be provided wherever space will permit, for oilers and other employees whose duties require them to go consistently to elevated and hazardous locations.

(a) Where such passageways are over walkways or work areas, standard toeboards ((shall)) must be provided.

(b) Protection, as required by chapter 296-806 WAC, Machine safety, ((shall)) must be provided against contact with transmission machinery or moving conveyors.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-78-71009 Stairways and ladders. (1) Stairways ((shall)) must be used in preference over ladders whenever possible. Stairways or ladders, whichever is used, ((shall)) must be constructed and maintained in accordance with the provisions of WAC 296-24-75009 through 296-24-81013, WAC 296-800-250 and chapter 296-876 WAC, Ladders, portable and fixed.

(2) Doors ((shall)) must not open directly on a flight of stairs.

(3) Permanent ladders ((shall)) must be fastened securely at both the top and the bottom.

(4) Portable ladders ((shall)) must not be used upon footing other than a suitable type.

(5) Hooks or other means of securing portable ladders when in use((shall)) must be provided.

(6) Portable ladders ((shall)) must not be used for oiling machinery which is in motion.

AMENDATORY SECTION (Amending WSR 06-01-073, filed 12/20/05, effective 3/1/06)

WAC 296-78-71011 Egress and exit. (1) In all enclosed buildings, means of egress ((shall)) must be provided in accordance with the provisions of WAC 296-800-310.

(2) All swinging doors ((shall)) must be provided with windows, the bottom of which ((shall be)) must not be more than forty-eight inches above the floor. One window ((shall)) must be provided for each section of double swinging doors. All such windows ((shall)) must be of shatter proof or safety glass unless otherwise protected against breakage.

(3) Outside exits ((shall)) must open outward. ((Where)) When sliding doors are used as exits, an inner door not less than two feet six inches by six feet ((shall)) must be cut inside each of the main doors and arranged to open outward.

(4) At least two fire escapes or substantial outside stairways((shall)) must be provided for mill buildings where the floor level is more than eight feet above the ground.

(a) Buildings over one hundred fifty feet in length ((shall)) must have at least one additional fire escape or substantial outside stairway for each additional one hundred fifty feet of length or fraction thereof.

(b) Passageways to fire escapes or outside stairways ((shall)) must be marked and kept free of obstructions at all times.

(c) Fire protection. The requirements of chapter 296-24 WAC, Part G-3 of the general safety and health standard, and WAC 296-800-300 of the safety and health core rules, and chapter 296-811 WAC, Fire brigades, ((shall)) must be complied with in providing the necessary fire protection for sawmills.

(d) Fire drills ~~((shall))~~ must be held at least quarterly and ~~((shall))~~ must be documented.

(5) Where a doorway opens upon a roadway, railroad track, or upon a tramway or dock over which vehicles travel, a barricade or other safeguard and a warning sign ~~((shall))~~ must be placed to prevent workers from stepping directly into moving traffic.

(6) Tramways and trestles ~~((shall))~~ must be substantially supported by piling or framed bent construction, which ~~((shall))~~ must be frequently inspected and maintained in good repair at all times. Tramways or trestles used both for vehicular and pedestrian traffic ~~((shall))~~ must have a walkway with standard hand rail at the outer edge and shear timber on the inner edge, and ~~((shall))~~ must provide three feet clearance to vehicles. When walkways cross over other thoroughfares, they ~~((shall))~~ must be solidly fenced at the outer edge to a height of forty-two inches over such thoroughfares.

(7) Where tramways and trestles are built over railroads, they ~~((shall))~~ must have a vertical clearance of twenty-two feet above the top of the rails. When constructed over carrier docks or roads, they ~~((shall))~~ must have a vertical clearance of not less than six feet above the drivers foot rest on the carrier, and in no event ~~((shall))~~ must this clearance be less than twelve feet from the surface of the lower roadway or dock.

(8) Walkways (either temporary or permanent) ~~((shall))~~ must be not less than twenty-four inches wide and two inches thick, nominal size, securely fastened at each end. When such walkways are used on an incline the angle ~~((shall))~~ must not be greater than twenty degrees from horizontal.

(9) Walkways from the shore or dock to floats or barges ~~((shall))~~ must be securely fastened at the shore end only and clear space provided for the other end to adjust itself to the height of the water.

(10) Cleats of one by four inch material ~~((shall))~~ must be fastened securely across walkways at uniform intervals of eighteen inches whenever the grade is sufficient to create a slipping hazard.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-71013 Cableways. (1)~~((a))~~ Inclined cableways ~~((shall))~~ must have a central line between the rails in practical alignment with the center of the hoisting drums. A substantial bumper ~~((shall))~~ must be installed at the foot of each incline.

~~((b))~~ (2) Barricades or warning signs ~~((shall))~~ must be installed to warn pedestrians to stand clear of the cables on inclined cableways. The cables ~~((shall))~~ must not be put into motion without activating an alarm system, either audible or visible, which will inform anyone on the tracks to stand clear.

~~((c))~~ (3) Employees ~~((shall))~~ must not ride on or stand below the cars on an inclined cableway.

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

WAC 296-78-71015 Tanks and chemicals. (1) All open vats and tanks into which workers may fall ~~((shall))~~ must be guarded with standard railings or screen guards in all

cases where such guarding is possible with regard to practical operation.

(2) Foundations of elevated tanks ~~((shall))~~ must be accessible for inspections. When the tank platform is more than five feet above the ground a stairway or ladder ~~((shall))~~ must be permanently attached.

(3) Every open tank over five feet in height ~~((shall))~~ must be equipped with fixed standard ladders both inside and out, extending from the bottom to the rim of the tank arranged to be accessible to each other, so far as local conditions permit.

(4) The use of chemicals for treating of lumber for prevention of sap stain or mold or as preservatives, ~~((shall))~~ must conform to the requirements of chapter 296-835 WAC, Dipping and coating operations (dip tanks).

(a) Storage, handling, and use of chemicals. Threshold limits. Employees ~~((shall))~~ must not be exposed to airborne concentration of toxic dusts, vapors, mists or gases that exceed the threshold limit values set forth in chapter 296-62 WAC, Part H, and chapter 296-841 WAC, Airborne contaminants.

(b) Protective equipment. The use of chemicals ~~((shall))~~ must be controlled ~~((so as))~~ to protect employees from harmful exposure to toxic materials. Where necessary, employees ~~((shall))~~ must be provided with and are required to wear such protective equipment ~~((as))~~ that will afford adequate protection against harmful exposure as required by WAC 296-800-160, and chapter 296-842 WAC, Respirators.

~~((c))~~ (5)~~((a))~~ Means ~~((shall))~~ must be provided and used to collect any excess of chemicals used in treating lumber so as to protect workers from accidental contact with harmful concentrations of toxic chemicals or fumes.

~~((b))~~ (a) Dip tanks containing flammable liquids ~~((shall))~~ must be constructed, maintained and used in accordance with chapter 296-835 WAC, Dipping and coating operations (dip tanks).

~~((c))~~ (b) An evacuation plan ~~((shall))~~ must be developed and implemented for all employees working in the vicinity of dip tanks using flammable liquids. A copy of the plan ~~((shall))~~ must be available at the establishment for inspection at all times. Every employee ~~((shall))~~ must be made aware of the evacuation plan and know what to do in the event of an emergency and be evacuated in accordance with the plan. The plan ~~((shall))~~ must be reviewed with employees at least quarterly and documented.

~~((d))~~ (c) When automatic foam, automatic carbon dioxide or automatic dry chemical extinguishing systems are used, an alarm device ~~((shall))~~ must be activated to alert employees in the dip tank area before and during the activation of the system. The following combinations of extinguishment systems when used in conjunction with the evacuation plan as stated above will be acceptable in lieu of bottom drains:

(i) A dip tank cover with an automatic foam extinguishing system under the cover, or an automatic carbon dioxide system, or an automatic dry chemical extinguishing system, or an automatic water spray extinguishing system;

(ii) An automatic dry chemical extinguishing system with an automatic carbon dioxide system or a second automatic dry chemical extinguishing system or an automatic foam extinguishing system;

(iii) An automatic carbon dioxide system with a second automatic carbon dioxide system or an automatic foam extinguishing system.

~~((e))~~ (d) The automatic water spray extinguishing systems, automatic foam extinguishing systems, and dip tank covers ~~((shall))~~ must conform with the requirements of chapter 296-835 WAC, Dipping and coating operations (dip tanks). The automatic carbon dioxide systems and dry chemical extinguishing system ~~((shall))~~ must conform with the requirements of WAC 296-24-615 and 296-24-620.

(6) Where workers are engaged in the treating of lumber with chemicals or are required to handle lumber or other materials so treated, the workers ~~((shall))~~ must be provided with, at no cost to the worker, and required to use such protective equipment ~~((as))~~ that will provide complete protection against contact with toxic chemicals or fumes therefrom.

(7) Sanitation requirements. The requirements of WAC 296-800-220 and 296-800-230 (safety and health core rules), ~~((shall))~~ must govern sanitation practices.

(8) The sides of steam vats and soaking pits, unless otherwise guarded ~~((shall))~~, must extend forty-two inches above the floor level. The floor adjacent thereto ~~((shall))~~ must be of nonslip construction.

(9) Large steam vats or soaking pits, divided into sections, ~~((shall))~~ must be provided with substantial walkways between each section, each walkway to be provided with standard railings which may be removable if necessary.

(10) Covers ~~((shall))~~ must be removed only from that portion of the steaming vats on which workers are working and a portable railing ~~((shall))~~ must be placed at this point to protect the operators.

(11) Workers ~~((shall))~~ must not ride or step on logs in steam vats.

AMENDATORY SECTION (Amending WSR 06-16-020, filed 7/24/06, effective 12/1/06)

WAC 296-78-71017 Dry kilns. (1) Dry kilns ~~((shall))~~ must be ~~((so))~~ constructed upon solid foundations so that tracks will not sag. Dry kilns ~~((shall))~~ must be provided with suitable walkways. Each kiln ~~((shall))~~ must have doors that operate from the inside and be provided with escape doors of adequate height and width to accommodate an average size man, that also operates from the inside, and ~~((shall))~~ must be located in or near the main door. Escape doors ~~((shall))~~ must swing in the direction of the exit. Kiln doors and door carriers ~~((shall))~~ must be fitted with safety devices to prevent the doors or carriers from falling.

(2) Ladders. A fixed ladder, in accordance with the requirements of chapter 296-876 WAC, Ladders, portable and fixed, or other means ~~((shall))~~ must be provided to permit access to the roof. Where controls and machinery are mounted on the roof, a permanent stairway with standard handrail ~~((shall))~~ must be installed in accordance with the requirements of WAC 296-800-250.

(3) A heated room ~~((shall))~~ must be provided for the use of the kiln operator in inclement weather. ~~((He))~~ They should remain in such room for at least ten minutes after leaving a hot kiln before going to cold outside air.

(4) Where operating pits are used, they ~~((shall))~~ must be well ventilated, drained and lighted. Substantial gratings ~~((shall))~~ must be installed at the kiln floor line. Steam lines ~~((shall))~~ must be provided with insulation wherever exposed to contact by employees. Fans ~~((shall))~~ must be enclosed by standard safeguards.

(5) Mechanical equipment. All belts, pulleys, blowers, and other exposed moving equipment used in or about kilns ~~((shall))~~ must be guarded in accordance with chapter 296-806 WAC, Machine safety.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-78-71019 Exhaust systems. (1) Air requirements in buildings, where persons are habitually employed, ~~((shall))~~ must meet the requirements of the general occupational health standard, WAC 296-62-100 through 296-62-11013.

(2) Where the natural ventilation is not sufficient to remove dust, fumes or vapors that create or constitute a hazard, additional means of removal ~~((shall))~~ must be provided.

(3) All mills containing one or more machines whose operations create dust, shavings, chips or slivers during a period of time equal to or greater than one-fourth of the working day or shift, ~~((shall))~~ must be equipped with a collecting system either continuous or automatic in action and of sufficient strength and capacity to thoroughly remove such refuse from the points of operation of the machines and the work areas.

(4) Each woodworking machine that creates dust, shavings, chips, or slivers ~~((shall))~~ must be equipped with an exhaust or conveyor system located and adjusted to remove the maximum amount of refuse from the point of operation and immediate vicinity.

(5) Blower, collecting and exhaust systems ~~((shall))~~ must be designed, constructed and maintained in accordance with American National Standards Z33.1 - 1961 (for the installation of blower and exhaust systems for dust, stock and vapor removal or conveying) and Z12.20 - 1962 (R1969) (code for the prevention of dust explosions in woodworking and wood flour manufacturing plants).

(6) Fans used for ventilating ~~((shall))~~ must be of ample capacity, as evidenced by the performance schedules of the manufacturers, and ~~((shall))~~ must be guarded when exposed to contact. Hoods, dust conveyors, dust collectors and other accessory equipment ~~((shall))~~ must be large enough to insure free intake and discharge.

(7) The outlet or discharge of all ventilating equipment ~~((shall))~~ must be ~~((so))~~ arranged so that at no time will the dust, vapors, gases or other air borne impurities discharged, create or constitute a hazard.

(8) Where a hood is used to form a part or all of the guard required on a given machine, it ~~((shall))~~ must be constructed of ~~((not))~~ no less than ten U.S. gauge sheet metal, or if of cast iron it ~~((shall be))~~ must not be less than three-sixteenths inches in thickness.

(9) All exhaust pipes ~~((shall))~~ must be of such construction and internal dimensions as to minimize the possibility of

clogging. They ~~((shall))~~ must be readily accessible for cleaning.

(10) All exhaust pipes ~~((shall))~~ must empty into settling or dust chambers which ~~((shall))~~ must effectively prevent the dust or refuse from entering any work area. Such settling or dust chambers ~~((shall))~~ must be so designed and operated as to reduce to a minimum the danger of fire or dust explosions.

(11) In lieu of a general ventilating system, exhaust or blower units may be installed on the dust or fume producing machine, provided the required protection is secured thereby.

(12) When proper ventilation is not provided, and temporary hazardous conditions are therefore encountered, ~~((the employer shall))~~ you must furnish approved respiratory and visual equipment: Provided, however, That the exposure to such hazard ~~((shall))~~ must not be for more than two hours duration. Protective measures and equipment ~~((shall))~~ must meet the requirements of chapter 296-842 WAC, Respirators.

(13) Provisions for the daily removal of refuse ~~((shall))~~ must be made in all operations not required to have an exhaust system, or having refuse too heavy, or bulky, or otherwise unsuitable to be handled by an exhaust system.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-71021 Spray painting. All spray painting operations ~~((shall))~~ must be carried on in accordance with the requirements of the general safety and health standard, WAC 296-24-370 through 296-24-37027 and the general occupational health standard, WAC 296-62-11019.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-78-71023 Lighting. The lighting and illumination requirements of the safety and health core rules, WAC 296-800-210, ~~((shall))~~ must apply.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-71025 Gas piping and appliances. All gas piping and appliances ~~((shall))~~ must be installed in accordance with the American National Standard Requirements for Gas Appliances and Gas Piping Installations, Z21.30 - 1964.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-71501 General provisions. (1) All machinery or other equipment located or used on the premises of the operation or in the processes incidental thereto, ~~((shall))~~ must be provided and maintained with approved standard safeguards, irrespective of ownership.

(2) Machines ~~((shall))~~ must be ~~((so))~~ located so that each operator will have sufficient space in which to handle material with the least possible interference from or to other workers or machines.

(3) Machines ~~((shall))~~ must be so placed that it will not be necessary for the operator to stand where passing traffic creates a hazard.

(4) Aisles of sufficient width to permit the passing of vehicles or employees without crowding ~~((shall))~~ must be provided in all work areas and stock or storage rooms.

(5) All metal decking around machinery ~~((shall))~~ must be equipped to effectively prevent slipping.

(6) All machinery or equipment started by a control so located as to create impaired vision of any part of such machinery or equipment ~~((shall))~~ must be provided with an audible warning device, where such machinery or equipment is exposed to contact at points not visible to the operator. Such devices ~~((shall))~~ must be sounded before starting up unless positive mechanical or electrical interlocking controls are provided which will prevent starting until all such posts are cleared.

(7) A mechanical or electrical power control device ~~((shall))~~ must be provided at each machine which will make it possible for the operator to stop the machine feed without leaving his position at the point of operation.

(8) All machines operated by means of treadles, levers, or other similar devices, ~~((shall))~~ must be provided with positive and approved nonrepeat devices except where such machine is being used as an automatic repeating device.

(9) Operating levers and treadles on all machines or machinery ~~((shall))~~ must be ~~((so))~~ located and protected ~~((that))~~ so they cannot be shifted or tripped accidentally.

(10) All power driven machinery ~~((shall))~~ must be stopped and brought to a complete standstill before any repairs or adjustments are made or pieces of material or refuse removed, except where motion is necessary to make adjustments.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-78-71505 Mechanical power transmission apparatus. (1) Machines and other equipment ~~((shall))~~ must not be oiled while in motion, unless provided with guards or other devices to permit oiling without any possibility of contact with moving parts of machinery.

(2) Inspections ~~((shall))~~ must be made to ~~((assure))~~ ensure that shaftings, bearings and machines are in proper alignment at all times and that bolts in shaft hangers, couplings and boxes are tight.

(3) Isolated bearings or other equipment not reached by walkway ~~((shall))~~ must be served by a ladder or other means of safe access.

(4) Running belts under power on or off pulleys ~~((shall))~~ must be accomplished by mechanical means which will not expose employees to moving elements of the operation.

(5) Counterweights located on or near passageways or work areas ~~((shall))~~ must be provided with enclosures. Overhead counterweights ~~((shall))~~ must be provided with substantial safety chains or cables, or otherwise secured against falling.

(6) The construction, operation, and maintenance of all mechanical power-transmission apparatus ~~((shall))~~ must be in accordance with chapter 296-806 WAC, Machine safety.

(7) Baffles ~~((shall))~~ must be erected, where necessary, to protect employees from breaking belts, chains, ropes or cables.

(8) Overhead horizontal belts, chains or rope drives ~~((shall))~~ must be provided with guards.

(9) Hydraulic systems. Means ~~((shall))~~ must be provided to block, chain, or otherwise secure equipment normally supported by hydraulic pressure so as to provide for safe maintenance.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-720 Boiler and pressure vessels. Boilers and pressure vessels ~~((shall))~~ must be constructed, maintained and inspected in accordance with the provisions of the boiler and unfired pressure vessel law, chapter 70.79 RCW, and chapter 296-104 WAC as administered by the boiler inspection section of the department of labor and industries.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-725 Nonionizing radiation. (1) Only qualified and trained employees ~~((shall))~~ must be assigned to install, operate, adjust, and maintain laser equipment. Proof of qualification of the laser equipment operator ~~((shall))~~ must be available and in possession of operator at all times.

(2) Employees, when working in areas in which a potentially hazardous exposure (see WAC 296-62-09005(4)) to direct or reflected laser radiation exists, ~~((shall))~~ must be provided with antilaser eye protection devices specified in WAC 296-62-09005, general occupational health standards.

(3) Areas in which lasers are used ~~((shall))~~ must be posted with standard laser warning placards.

(4) Beam shutters or caps ~~((shall))~~ must be utilized, or the laser turned off, when laser transmission is not actually required. When the laser is left unattended for a substantial period of time, such as during lunch hour, overnight, or at change of shifts, the laser ~~((shall))~~ must be turned off or shutters or caps ~~((shall))~~ must be utilized.

(5) The laser beam ~~((shall))~~ must not be directed at employees.

(6) Only mechanical or electronic means ~~((shall))~~ must be used as a detector for guiding the internal alignment of the laser.

(7) The laser equipment ~~((shall))~~ must bear such labels, logos and data placards to indicate maximum output and class designation as required of the manufacturer at time of sale, by I.A.W. Part 1040, C.F.R. Title 21. Such labels, logos, data placards, etc., ~~((shall))~~ must be maintained in a legible condition.

(8) When it is raining or snowing, or when there is dust or fog in the air, and it is impracticable to cease laser system operation, employees ~~((shall))~~ must be kept out of range of the area of source and target during such weather conditions.

(9) Employees ~~((shall))~~ must not be exposed to light intensities in excess of:

(a) Direct staring: One micro-watt per square centimeter;

(b) Incidental observing: One milliwatt per square centimeter; or

(c) Diffused reflected light: Two and one-half watts per square centimeter.

(10) The laser equipment ~~((shall))~~ must not be modified, except by the manufacturer.

(11) Laser unit in operation ~~((shall))~~ must be set up above the heads of the employees, when possible.

(12) Employees ~~((shall))~~ must not be exposed to radio frequency/microwave radiation in excess of the permissible exposure limits specified in WAC 296-62-09005.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-78-730 Electrical service and equipment.

(1) Electrical service and equipment ~~((shall))~~ must be constructed, maintained, inspected and operated according to chapter 296-24 WAC, General safety and health standards, Part L, and WAC 296-800-280 of the safety and health core rules.

(2) Repairs. Electrical repairs ~~((shall))~~ must be made only by authorized and qualified personnel.

(3) Identification. Marks of identification on electrical equipment ~~((shall))~~ must be clearly visible.

(4) Protective equipment. Rubber protective equipment ~~((shall))~~ must be provided as required by WAC 296-800-160 of the safety and health core rules.

(5) Open switches. Before working on electrical equipment, switches ~~((shall))~~ must be open and ~~((shall))~~ must be locked out.

(6) Concealed conductors. Where electrical conductors are known to be concealed, no work ~~((shall))~~ must be performed until such conductors are located.

(7) Overload relays. Overload relays ~~((shall))~~ must be reset by authorized qualified personnel only.

(8) Passageways to panels. Passageways to switch centers or panels ~~((shall at all times))~~ must be kept free from obstruction at all times. Not less than three feet of clear space ~~((shall))~~ must be maintained in front of switch centers or panels at all times.

(9) Bridging fuses. Fuses ~~((shall))~~ must not be doubled or bridged.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-78-735 Elevators, moving walks. Elevators, moving walks and other lifting devices intended for either passenger or freight service ~~((shall))~~ must be constructed, maintained, inspected and operated in accordance with the provisions of chapter 70.87 RCW, WAC 296-24-875 through 296-24-90009 of the general safety and health standards, and those specific standards which are applicable from the division of building and construction safety inspection services, elevator section.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-740 Transportation—Lumber handling equipment—Cranes—Construction. (1) All apparatus ~~((shall))~~ must be designed throughout, with not less than

the following factors of safety, under static full rated load stresses, based on ultimate strength of the material used:

Material	Factor of Safety
Cast iron	12
Cast steel.	8
Structural steel	5
Forged steel.	5
Cables	5

(2) A notice ~~((shall))~~ must be placed on every crane and hoist showing the maximum allowable load in pounds or tons. This notice ~~((shall))~~ must be placed in such a manner as to be clearly legible from the floor.

(3) Cranes ~~((shall))~~ must be of what is known as "all steel construction." No cast iron ~~((shall))~~ will be used in parts subject to tension except in drums, trolley sides, bearings, brackets and brake shoes.

(4) The construction of cranes ~~((shall))~~ must be such that all parts may be safely lubricated and inspected when cranes are not in operation.

(5) Bolts subject to stress ~~((shall))~~ must be of the through type and all bolts ~~((shall))~~ must be equipped with approved protection so that the bolt will not work loose or nuts work off.

(6) Outside crane cages ~~((shall))~~ must be enclosed. There ~~((shall))~~ must be windows on three sides of the cage and windows in the front, and the side opposite the door ~~((shall))~~ must be the full width of the cage.

(7) Where a tool box or receptacle is used for the storing of oil cans, tools, etc., it ~~((shall))~~ must be permanently secured in the cage or on the foot-walk of outside cranes and on the foot-walk of inside cranes. Tool boxes of hot metal cranes ~~((shall))~~ must be constructed of metal.

(8) All gears on cranes ~~((shall))~~ must be provided with standard guards.

(9) Keys projecting from revolving shafts ~~((shall))~~ must be guarded.

(10) A braking apparatus ~~((shall))~~ must be provided on every type of crane and ~~((shall))~~ must be so designed and installed as to be capable of effectually braking a weight of at least one and one-half times the full rated load.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-745 Electrical equipment. (1) All exposed current-carrying parts except conductors, connected to circuits above three hundred volts to ground ~~((shall))~~ must be ~~((se))~~ isolated, insulated, or guarded so that no employee can come in contact with them. Exposed parts less than 300 volts ~~((shall))~~ must be protected in some suitable way against possible accidental contact. Exposed metallic parts of conduit armored cable or molding ~~((shall))~~ must be permanently grounded.

(2) Guards for the current-carrying parts of unisolated electrical equipment, such as controllers, motors, transformers, automatic cutouts, circuit breakers, switches, and other

devices ~~((shall))~~ must consist of cabinets, casings, or shields of permanently grounded metal or of insulating material.

(3) All parts of electrical equipment, such as fuses and the handles and arc chutes of circuit breakers, ~~((shall))~~ must be ~~((se))~~ isolated or guarded so that the liability of employees being struck or burned by sparking, flashing or movement during operation is reduced to a minimum.

(4) All exposed noncurrent carrying metal parts of electrical equipment ~~((shall))~~ must be permanently grounded. The ground connection through well bonded track rails will be considered satisfactory.

(5) The metallic parts of portable cranes, derricks, hoists, and similar equipment on which wires, cables, chains, or other conducting objects are maintained ~~((shall))~~ must be provided with an effective protective ground, where operated in the vicinity of supply lines.

(6) Readily accessible means ~~((shall))~~ must be provided whereby all conductors and equipment located in cranes can be disconnected entirely from the source of energy at a point as near as possible to the main current collectors.

(7) Means ~~((shall))~~ must be provided to prevent the starting and operation of equipment by unauthorized persons.

(8) The control levers of traveling cranes ~~((shall))~~ must be ~~((se))~~ located so that the operator can readily face the direction of travel.

(9) A hoist limiting device ~~((shall))~~ must be provided for each hoist.

(10) All fuses ~~((shall))~~ must be of the enclosed arcless type.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-750 Chains, wire rope, cables and fiber rope. (1) Ropes, cables, slings, and chains.

(a) Safe usage. Ropes, cables, slings, and chains ~~((shall))~~ must be used in accordance with safe use practices recommended by the manufacturer or within safe limits recommended by the equipment manufacturer when used in conjunction with it.

(b) Work by qualified persons. Installation, inspection, maintenance, repair, and testing of ropes, cables, slings, and chains ~~((shall))~~ must be done only by persons qualified to do such work.

~~((b))~~ (c) Proof testing. ~~((The employer shall))~~ You must ensure that before use, each new, repaired, or reconditioned alloy steel chain sling, including all welded components in the sling assembly, ~~((shall be))~~ is proof tested by the sling manufacturer or equivalent entity, in accordance with paragraph 5.2 of the American Society of Testing and Materials Specification A391.65 (ANSI G61.1-1968). ~~((The employer shall))~~ You must retain the certificate of the proof test and ~~((shall))~~ must make it available for examination. When a chain sling assembly is made up of segments of proof tested alloy chain and proof tested individual components such as mechanical coupling links, hooks and similar devices; it is not necessary to test the assembled unit, when appropriate test certification of individual components is available and the assembled sling is appropriately tagged by the manufacturer or equal entity. The sling ~~((shall))~~ must not

be used in excess of the rated capacity of the weakest component.

~~((e) Slings-))~~ (d) Slings and their fittings and fastenings, when in use, ~~((shall))~~ must be inspected daily for evidence of overloading, excessive wear, or damage. Slings found to be defective ~~((shall))~~ must be removed from service.

(2) Proper storage ~~((shall))~~ must be provided for slings while not in use.

(3) Protection ~~((shall))~~ must be provided between the sling and sharp unyielding surfaces of the load to be lifted.

(4) Hooks. No open hook ~~((shall))~~ must be used in rigging to lift any load where there is hazard from relieving the tension on the hook from the load or hook catching or fouling.

(5) Ropes or cables. Wire rope or cable ~~((shall))~~ must be inspected when installed and once each day thereafter, when in use. It ~~((shall))~~ must be removed from hoisting or load-carrying service when kinked or when one of the following conditions exist:

(a) When three broken wires are found in one lay of 6 by 6 wire rope.

(b) When six broken wires are found in one lay of 6 by 19 wire rope.

(c) When nine broken wires are found in one lay of 6 by 37 wire rope.

(d) When eight broken wires are found in one lay of 8 by 19 wire rope.

(e) When marked corrosion appears.

(f) Wire rope of a type not described herein ~~((shall))~~ must be removed from service when four percent of the total number of wires composing such rope are found to be broken in one lay.

(g) Condemned. When wire rope, slings or cables deteriorate through rust, wear, broken wires, kinking or other conditions, to the extent there is a reasonable doubt that the necessary safety factor is maintained, the use of such equipment ~~((shall))~~ must be discontinued.

(6) Wire rope removed from service due to defects ~~((shall))~~ must be plainly marked or identified as being unfit for further use on cranes, hoists, and other load-carrying devices.

(7) The ratio between the rope diameter and the drum, block, sheave, or pulley tread diameter ~~((shall))~~ must be such that the rope will adjust itself to the bend without excessive wear, deformation, or injury. In no case ~~((shall))~~ must the safe value of drums, blocks, sheaves, or pulleys be reduced when replacing such items unless compensating changes are made for rope used and for safe loading limits.

~~((Drums, sheaves, and pulleys-))~~ (8) Drums, sheaves, and pulleys ~~((shall))~~ must be smooth and free from surface defects liable to injure rope. Drums, sheaves, or pulleys having eccentric bores or cracked hubs, spokes, or flanges ~~((shall))~~ must be removed from service.

~~((Connections-))~~ (9) Connections, fittings, fastenings, and other parts used in connection with ropes and cables ~~((shall))~~ must be of the quality, size and strength recommended by the manufacturer for the use intended. These connections ~~((shall))~~ must be installed in accordance with the manufacturer's recommendations.

(10) Socketing, splicing, and seizing.

(a) Socketing, splicing, and seizing of cables ~~((shall))~~ must be performed only by qualified persons.

(b) All eye splices ~~((shall))~~ must be made in a manner recommended by the manufacturer and wire rope thimbles of proper size ~~((shall))~~ must be fitted in the eye, except that in slings the use of thimbles ~~((shall))~~ will be optional.

(11) Wire rope clips attached with U-bolts ~~((shall))~~ must have these bolts on the dead or short end of the rope. The U-bolt nuts ~~((shall))~~ must be retightened immediately after initial load carrying use and at frequent intervals thereafter. The number and spacing of clips ~~((shall))~~ must be as follows:

Improved Plow Steel Diameter of Rope	Number of Clips (Drop Forged)	Required Other Material	Minimum Space Between Clips
3/8 to 5/8"	3	4	3-3/4 "
3/4"	4	5	4-1/2 "
7/8"	4	5	5-1/4 "
1"	5	6	6 "
1-1/8"	6	6	6-3/4 "
1-1/4"	6	7	7-1/2 "
1-3/8"	7	7	8-1/4 "
1-1/2"	7	8	9 "

(a) When a wedge socket-type fastening is used, the dead or short end of the cable ~~((shall))~~ must be clipped with a U-bolt or otherwise made secure against loosening.

(b) Fittings. Hooks, shackles, rings, pad eyes, and other fittings that show excessive wear or that have been bent, twisted, or otherwise damaged ~~((shall))~~ must be removed from service.

(12) Running lines. Running lines of hoisting equipment located within six feet six inches of the ground or working level ~~((shall))~~ must be boxed off or otherwise guarded, or the operating area ~~((shall))~~ must be restricted.

(13) Preventing abrasion. The reeving of a rope ~~((shall))~~ must be so arranged as to minimize chafing or abrading while in use.

(14) Sheave guards. Bottom sheaves ~~((shall))~~ must be protected by close fitting guards to prevent cable from jumping the sheave.

(15) There ~~((shall be))~~ must not be less than two full wraps of hoisting cable on the drums of cranes and hoists at all times of operation.

(16) Where the cables are allowed to pile on the drums of cranes, the drums ~~((shall))~~ must have a flange at each end to prevent the cables from slipping off the drum.

~~((Chains-))~~ (17) Chains used in load carrying service ~~((shall))~~ must be inspected before initial use and weekly thereafter.

If at any time any three-foot length of chain is found to have stretched one-third the length of a link it ~~((shall))~~ must be discarded.

(18) Chains ~~((shall))~~ must be spliced in compliance with the requirements of the general safety and health standard, WAC 296-24-29413.

(19) Wherever annealing of chains is attempted, it ~~((shall))~~ must be done in properly equipped annealing furnaces and under the direct supervision of a competent person thoroughly versed in heat treating.

Chains ~~((shall))~~ must be normalized or annealed periodically as recommended by the manufacturer.

(20) Fiber rope.

(a) Frozen fiber rope ~~((shall))~~ must not be used in load carrying service.

(b) Fiber rope that has been subjected to acid ~~((shall))~~ must not be used for load carrying purposes.

(c) Fiber rope ~~((shall))~~ must be protected from abrasion by padding where it is fastened or drawn over square corners or sharp or rough surfaces.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-755 Natural and synthetic fiber rope slings. (1) Sling use.

(a) Fiber rope slings made from conventional three strand construction fiber rope ~~((shall))~~ must not be used with loads in excess of the rated capacities prescribed in Tables D-16 through D-19 of Part "D" of the general safety and health standards, chapter 296-24 WAC.

(b) Slings not included in these tables ~~((shall))~~ must be used only in accordance with the manufacturer's recommendations.

(2) Safe operating temperatures. Natural and synthetic fiber rope slings, except for wet frozen slings, may be used in a temperature range from minus 20°F to plus 180°F without decreasing the working load limit. For operations outside this temperature range and for wet frozen slings, the sling manufacturer's recommendations ~~((shall))~~ must be followed.

(3) Splicing. Spliced fiber rope slings ~~((shall))~~ must not be used unless they have been spliced in accordance with the following minimum requirements and in accordance with any additional recommendations of the manufacturer:

(a) In manila rope, eye splices ~~((shall))~~ must consist of at least three full tucks, and short splices ~~((shall))~~ must consist of at least six full tucks, three on each side of the splice center line.

(b) In synthetic fiber rope, eye splices ~~((shall))~~ must consist of at least four full tucks, and short splices ~~((shall))~~ must consist of at least eight full tucks, four on each side of the center line.

(c) Strand end tails ~~((shall))~~ must not be trimmed flush with the surface of the rope immediately adjacent to the full tucks. This applies to all types of fiber rope and both eye and short splices. For fiber rope under one inch in diameter, the tail ~~((shall))~~ must project at least six rope diameters beyond the last full tuck. For fiber rope one inch in diameter and larger, the tail ~~((shall))~~ must project at least six inches beyond the last full tuck. Where a projecting tail interferes with the use of the sling, the tail ~~((shall))~~ must be tapered and spliced into the body of the rope using at least two additional tucks

(which will require a tail length of approximately six rope diameters beyond the last full tuck).

(d) Fiber rope slings ~~((shall))~~ must have a minimum clear length of rope between eye splices equal to ten times the rope diameter.

(e) Knots ~~((shall))~~ must not be used in lieu of splices.

(f) Clamps not designed specifically for fiber ropes ~~((shall))~~ must not be used for splicing.

(g) For all eye splices, the eye ~~((shall))~~ must be of such size to provide an included angle of not greater than sixty degrees at the splice when the eye is placed over the load or support.

(4) End attachments. Fiber rope slings ~~((shall))~~ must not be used if end attachments in contact with the rope have sharp edges or projections.

(5) Removal from service. Natural and synthetic fiber rope slings ~~((shall))~~ must be immediately removed from service if any of the following conditions are present:

(a) Abnormal wear.

(b) Powdered fiber between strands.

(c) Broken or cut fibers.

(d) Variations in the size or roundness of strands.

(e) Discoloration or rotting.

(f) Distortion of hardware in the sling.

(6) Repairs. Only fiber rope slings made from new rope ~~((shall))~~ must be used. Use of repaired or reconditioned fiber rope slings is prohibited.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-760 Synthetic web slings. (1) Sling identification. Each sling ~~((shall))~~ must be marked or coded to show the rated capacities for each type of hitch and type of synthetic web material.

(2) Webbing. Synthetic webbing ~~((shall))~~ must be of uniform thickness and width and selvage edges ~~((shall))~~ must not be split from the webbing's width.

(3) ~~((Fittings.))~~ Fittings ~~((shall))~~ must be:

(a) Of a minimum breaking strength equal to that of the sling; and

(b) Free of all sharp edges that could in any way damage the webbing.

(4) Attachment of end fittings to webbing and formation of eyes. Stitching ~~((shall))~~ must be the only method used to attach end fittings to webbing and to form eyes. The thread ~~((shall))~~ must be in an even pattern and contain a sufficient number of stitches to develop the full breaking strength of the sling.

(5) Sling use. Synthetic web slings illustrated in Figure D-6 ~~((shall))~~ must not be used with loads in excess of the rated capacities specified in Tables D-20 through D-22. Slings not included in these tables ~~((shall))~~ must be used only in accordance with the manufacturer's recommendations.

(6) Environmental conditions. When synthetic web slings are used, the following precautions ~~((shall))~~ must be taken:

(a) Nylon web slings ~~((shall))~~ must not be used where fumes, vapors, sprays, mists or liquids of acids or phenolics are present.

(b) Polyester and polypropylene web slings ~~((shall))~~ must not be used where fumes, vapors, sprays, mists or liquids of caustics are present.

(c) Web slings with aluminum fittings ~~((shall))~~ must not be used where fumes, vapors, sprays, mists or liquids of caustics are present.

(7) Safe operating temperatures. Synthetic web slings of polyester and nylon ~~((shall))~~ must not be used at temperatures in excess of 180°F. Polypropylene web slings ~~((shall))~~ must not be used at temperatures in excess of 200°F.

(8) Repairs.

(a) Synthetic web slings which are repaired ~~((shall))~~ must not be used unless repaired by a sling manufacturer or an equivalent entity.

(b) Each repaired sling ~~((shall))~~ must be proof tested by the manufacturer or equivalent entity to twice the rated capacity prior to its return to service. ~~((The employer shall))~~ You must retain a certificate of the proof test and make it available for examination.

(c) Slings, including webbing and fittings, which have been repaired in a temporary manner ~~((shall))~~ must not be used.

(9) Removal from service. Synthetic web slings ~~((shall))~~ must be immediately removed from service if any of the following conditions are present:

- (a) Acid or caustic burns;
- (b) Melting or charring of any part of the sling surface;
- (c) Snags, punctures, tears or cuts;
- (d) Broken or worn stitches; or
- (e) Distortion of fittings.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-765 Floor operated cranes. (1) An unobstructed aisle not less than three feet wide ~~((shall))~~ must be maintained for travel of the operator except in such cases where the control handles are hung from the trolleys of traveling cranes.

(2) The controller or controllers, if rope operated, ~~((shall))~~ must automatically return to the "off" position when released by the operator.

(3) Pushbuttons(~~(;)~~) in pendant stations(~~(-shall return))~~ must be returned to the "off" position when pressure is released by the crane operator.

(4) All pushbuttons ~~((shall))~~ must be marked to indicate their purpose.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-770 Operators. (1) Cranes ~~((shall))~~ must be operated only by regular crane operators, authorized substitutes who have had adequate experience and training under the supervision of a competent operator, or by crane repair person or inspectors.

(2) No person under the age of eighteen years ~~((shall))~~ will be permitted to operate a crane.

(3) Operators ~~((shall))~~ will be required to pass a practical examination limited to the specific type of equipment to be

operated. Operators ~~((shall))~~ must meet the following physical qualifications:

(a) Have vision of at least 20/30 Snellen in one eye, and 20/50 in the other, with or without corrective lenses.

(b) Be able to distinguish red, green, and yellow, regardless of position of colors, if color differentiation is required for operation.

(c) Hearing, with or without hearing aid, must be adequate for the specific operation.

(d) A history of epilepsy or an uncorrected disabling heart condition ~~((shall))~~ must be cause for a doctor decision to determine qualifications to operate a crane.

(4) Hands ~~((shall))~~ must be kept free when going up and down ladders. Articles which are too large to go into pockets or belts ~~((shall))~~ must be lifted to or lowered from the crane by hand line. (Except where stairways are provided.)

(5) Cages ~~((shall))~~ must be kept free of clothing and other personal belongings. Tools, extra fuses, oil cans, waste and other articles necessary in the crane cage ~~((shall))~~ must be stored in a tool box and not left loose on or about the crane.

(6) The ~~((operator shall))~~ operator(s) must familiarize ~~((himself))~~ themselves fully with all crane rules and with the crane mechanism and its proper care. If adjustments or repairs are necessary, ~~((he shall))~~ they must report the same at once to the proper authority.

(7) The operator ~~((shall))~~ must not eat, smoke or read while actually engaged in the operation of the crane.

(8) The operator or someone especially designated ~~((shall))~~ must lubricate all working parts of the crane.

(9) Cranes ~~((shall))~~ must be examined for loose parts or defects each day on which they are in use.

(10) Sawdust, oil or other debris ~~((shall))~~ must not be allowed to accumulate to create a fire, health or slipping hazard.

(11) Operators ~~((shall))~~ must avoid, as far as possible, carrying loads over workers. Loads ~~((shall))~~ must not be carried over employees without sounding an audible warning alarm.

(12) Whenever the operator finds the main or emergency switch open, ~~((he shall))~~ they must not close it, even when starting on regular duty, until ~~((he has))~~ they have made sure that no one is on or about the crane. ~~((He shall))~~ They must not oil or repair the crane unless the main switch is open.

(13) If the power goes off, the operator ~~((shall))~~ must immediately throw all controllers to the "off" position until the power is again available.

(14) Before closing the main switch the operator ~~((shall))~~ must make sure that all controllers are in the "off" position until the power is again available.

(15) The operator ~~((shall))~~ must pay special attention to the block, when long hitches are made, to avoid tripping the limit switch.

(16) The operator ~~((shall))~~ must recognize signals only from the person who is supervising the lift except for emergency stop signals. Operating signals ~~((shall))~~ must follow established standard crane signals as illustrated in WAC 296-78-830 of this chapter. Whistle signals may be used where one crane only is in operation. Cranes ~~((shall))~~ must have audible warning device which ~~((shall))~~ must be sounded in event of emergency.

(17) Before starting to hoist, the operator ~~((shall))~~ must place the trolley directly over the load to avoid swinging it when being hoisted.

(18) The operator ~~((shall))~~ must not make side pulls with the crane except when especially instructed to do so by the proper authority.

(19) When handling maximum loads, the operator ~~((shall))~~ must test the hoist brakes after the load has been lifted a few inches. If the brakes do not hold, the load ~~((shall))~~ must be lowered at once and the brakes adjusted or repaired.

(20) Bumping into runway stops or other cranes ~~((shall))~~ must be avoided. When the operator is ordered to engage with or push other cranes, ~~((he shall))~~ they must do so with special care for the safety of persons on or below cranes.

(21) When lowering a load, the operator ~~((shall))~~ must proceed carefully and make sure ~~((that he has))~~ they have the load under safe control.

(22) When leaving the cage, the operator ~~((shall))~~ must throw all controllers to the "off" position and open the main switch.

(23) If the crane is located out of doors, the operator ~~((shall))~~ must lock the crane in a secure position to prevent it from being blown along or off the track by a severe wind.

(24) Railroad cars ~~((shall))~~ must not be pulled along the tracks with sidepulls on an overhead crane.

(25) Operators ~~((shall))~~ must not move the crane or a load unless floor signals are clearly understood.

(26) The rated lifting capacity of a crane ~~((shall))~~ must not be exceeded. If any doubt exists about the weight of a load which might exceed the rated capacity, the foreman in charge must be contacted before any attempt is made to lift the load. The foreman ~~((shall))~~ must determine that the load is within the rated capacity of the crane or the load ~~((shall))~~ must not be lifted.

(27) Crane operators and floorpersons ~~((shall))~~ must coordinate their activities on every lift or movement of the crane. Both the operator and signalperson ~~((shall))~~ must clearly understand any problem a movement might create with regard to surrounding materials, structures, equipment or personnel.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-775 Signalmen. (1) Signalmen ~~((shall))~~ must give all the signals to the operator in accordance with established standard signals as illustrated in WAC 296-78-830 of this chapter.

(2) A designated person ~~((shall))~~ must be responsible for the condition and use of all hoisting accessories and for all hitches.

(3) Before an operator moves a crane upon which an empty chain or cable sling is hanging, both ends of the sling ~~((shall))~~ must be placed on the hook.

(4) Signalmen, where necessary, ~~((shall))~~ must walk ahead of the moving load and warn people to keep clear of it. They ~~((shall))~~ must see that the load is carried high enough to clear all obstructions.

(5) Signalmen ~~((shall))~~ must notify the person in charge in advance when an extra heavy load is to be handled.

(6) No person ~~((shall))~~ will be permitted to stand or pass under an electric magnet in use.

(7) The electrical circuit for electric magnets ~~((shall))~~ must be maintained in good condition. Means for taking up the slack cable ~~((shall))~~ must be provided.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-780 Repairmen. (1) When repairs are necessary, repairmen ~~((shall))~~ must have the crane run to a location where the repair work will least interfere with the other cranes and with operations on the floor.

(2) Before starting repairs, repairmen ~~((shall))~~ must see that all controllers are thrown to the "off" position, and that main or emergency switches are opened; one of these ~~((shall))~~ must be locked out in compliance with WAC 296-78-715(11) of this chapter.

(3) Repairmen ~~((shall))~~ must immediately place warning signs or "Out of Order" signs on a crane to be repaired and also on the floor beneath or hanging from the crane so that it can easily be seen from the floor. If other cranes are operated on the same runway, repairmen ~~((shall))~~ must also place rail stops at a safe distance or make other safe provisions.

(4) When repairing runways, repairmen ~~((shall))~~ must place rail stops and warning signs or signals so as to protect both ends of the section to be repaired.

(5) Repairmen ~~((shall))~~ must take care to prevent loose parts from falling or being thrown upon the floor beneath.

(6) Repairs ~~((shall))~~ will not be considered complete until all guards and safety devices have been put in place and the block and tackle and other loose material have been removed.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-785 Construction requirements. (1) Calculations for wind pressure on outside overhead traveling cranes ~~((shall))~~ must be based on not less than 30 pounds per square foot of exposed surface.

(2) No overhung gears ~~((shall))~~ must be used unless provided with an effective means of keeping them in place, and keys ~~((shall))~~ must be secured to prevent gears working loose.

(3) Safety lugs or brackets ~~((shall))~~ must be provided on the trolley frames and bridge ends of overhead traveling cranes, so that in the event of a broken axle or wheel the trolley or bridge proper will not have a drop greater than one inch.

~~((3))~~ (4) Where there are no members over an outside overhead crane suitable for attaching blocks for repair work, and a locomotive crane is not available, a structural steel outrigger of sufficient strength to lift the heaviest part of the trolley ~~((shall))~~ must be provided.

~~((4))~~ (5) Outside overhead traveling cranes ~~((shall))~~ must be equipped with wind indicators and rail clamps as required by the general safety and health standards, WAC 296-24-23503.

~~((5))~~ (6) Foot brakes, or other effective means ~~((shall))~~ must be provided to control the bridge travel of all overhead traveling cranes.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-790 Crane platforms and footwalks. (1) Platforms ~~((shall))~~ must be provided when changing and repairing truck wheels on end trucks.

(2) A platform or footwalk ~~((shall))~~ must be located on a crane or crane runway to give access to the crane cage, and it ~~((shall))~~ must be accessible from one or more stairways or fixed ladders. This platform or footwalk ~~((shall))~~ must be not less than eighteen inches in width.

(3) Where stairways are used to give access to platforms, they ~~((shall))~~ must make an angle of not more than fifty degrees with the horizontal and ~~((shall))~~ must be equipped with substantial railing. If ladders are used to give access to platforms they ~~((shall))~~ must extend not less than thirty-six inches above the platform. Railed stairways or ladders to be used as a means of ingress and egress to crane cages ~~((shall))~~ must be located at either or both ends.

(4) A footwalk ~~((shall))~~ must be placed along the entire length of the bridge on the motor side, and a short platform twice the length of the trolley placed at one end of the girder on the opposite side, with a vertical clearance of a least six feet six inches where the design of crane or building permits, but in no case ~~((shall))~~ must there be less than four feet clearance. For hand operated cranes the footwalk ~~((shall))~~ must not be required to be installed on the bridge of the crane, but there ~~((shall))~~ must be a repair platform equal in strength and design to that required for motor operated cranes, installed on the wall of the building or supported by the crane runway at a height equal to the lower edge of the bridge girder to facilitate necessary repairs.

(5) Clear width of footwalks ~~((shall))~~ must not be less than eighteen inches except around the bridge motor where it may be reduced to fifteen inches.

(6) Footwalks ~~((shall))~~ must be of substantial construction and rigidly braced. Footwalks for outside service ~~((shall))~~ must be constructed so as to provide proper drainage, but the cracks between the boards ~~((shall))~~ must not be wider than one-fourth inch.

(7) Every footwalk ~~((shall))~~ must have a standard railing and toeboard at all exposed edges. Railings and toeboards ~~((shall))~~ must conform in construction and design with the following requirements:

(a) Railings ~~((shall))~~ must be not less than thirty-six inches nor more than forty-two inches in height, with an additional rail midway between the top rail and the floor.

(b) Pipe railings ~~((shall))~~ must be not less than one and one-fourth inch inside diameter if of iron or be not less than one and one-half inches outside diameter if of brass tubing.

(c) Metal rails other than pipe ~~((shall))~~ must be at least equal in strength to that of one and one-half by three-sixteenths inch angle and ~~((shall))~~ must be supported by uprights of equal strength.

(d) Posts or uprights ~~((shall))~~ must be spaced not more than eight feet center to center.

(e) Toeboards ~~((shall))~~ must be not less than four inches in height.

(f) Toeboards ~~((shall))~~ must be constructed in a permanent and substantial manner of metal, wood, or other material equivalent thereto in strength. Where of wood, toeboards ~~((shall))~~ must be at least equal in cross section to one inch by four inches; where of steel at least one-eighth inch by four inches; where of other construction at least equal to the requirements for steel. Perforations up to one-half inch are permissible in metal toeboards.

(8) No openings ~~((shall))~~ must be permitted between the bridge footwalk and the crane girders. Where wire mesh is used to fill this opening the mesh openings ~~((shall be))~~ must not be greater than one-half inch.

(9) All footwalks and platforms ~~((shall))~~ must be ~~((se))~~ designed ~~((as))~~ to be capable of sustaining a concentrated load of one hundred pounds per lineal foot.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-78-795 Crane cages. (1) Safe means of escape ~~((shall))~~ must be provided for operators of all cranes in all operating locations. Rope ladders ~~((shall))~~ must not be used as a regular means of access but may be installed as an emergency escape device to be used in the event of fire, mechanical breakdown or other emergency.

(2) The operator's cage ~~((shall))~~ must be located at a place from which signals can be clearly distinguishable, and ~~((shall))~~ must be securely fastened in a place and well braced to minimize vibration. It ~~((shall))~~ must be large enough to allow ample room for the control equipment and the operator. The operator ~~((shall))~~ must not be required to step over an open space of more than eighteen inches when entering the cage.

(3) Cab operated cranes ~~((shall))~~ must be equipped with a portable fire extinguisher which meets the requirements of WAC 296-24-590 through 296-24-59007 and WAC 296-800-300.

(4) In establishments where continuous loud noises prevail such as caused by the operation of pneumatic tools, steam exhausts from boilers, etc., adequate signals ~~((shall))~~ must be installed on cranes or one or more employees ~~((shall))~~ must be placed on the floor for each crane operated to give warning to other employees of the approach of a crane with a load. Where there are more than two cranes on the same runway or within the same building structure, signaling devices are required to give warning to other employees of the approach of a crane with a load.

(5) Cages of cranes subjected to heat from below ~~((shall))~~ must be of noncombustible construction and ~~((shall))~~ must have a steel plate shield not less than one-eighth inch thick, placed not less than six inches below the bottom of the floor of the cage.

(6) Outside crane cages ~~((shall))~~ must be enclosed. There ~~((shall))~~ must be windows on three sides of the cage. The windows in the front and the side opposite the door ~~((shall))~~ must be the full width of the cage.

(7) The floor of the cage on ~~((out-door))~~ outdoor cranes ~~((shall))~~ must be extended to form an entrance landing which ~~((shall))~~ must be equipped with a handrail and toeboard constructed to the specifications of WAC 296-78-790 of this chapter.

(8) A copy of the rules for operators ~~((shall))~~ must be permanently posted in the cages of all cage-operated cranes.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-800 Crane rail stops, bumpers and fenders. (1) Rail stops ~~((shall))~~ must be provided at both ends of the crane runway and at ends of the crane bridge. When two trolleys are operated on the same bridge rails, bumpers ~~((shall))~~ must be provided to prevent collision of trolleys.

(2) Bumpers and rail stops ~~((shall))~~ must extend at least as high as the centers of the wheel.

(3) Rail stops ~~((shall))~~ must be fastened to the girders or girders and rails, but not to the rails alone. This does not apply to portable rail stops. Portable rail stops ~~((shall))~~ must not be used as permanent rail stops.

(4) Rail stops ~~((shall))~~ must be built up of plates and angles or be made of cast steel.

(5) Fenders ~~((shall))~~ must be installed which extend below the lowest point of the treads of gantry type crane wheels. They ~~((shall))~~ must be of a shape and form that will tend to push or raise an employee's hand, arm or leg off the rail and away from the wheel.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-805 Crawler locomotive and truck cranes. Crawler locomotives and truck cranes ~~((shall))~~ must be constructed, maintained, inspected and operated in accordance with the provisions of WAC 296-24-240 through 296-24-24019 of the general safety and health standards.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-810 Chain and electric hoists. (1) Chain and electric hoists ~~((shall))~~ must be of what is known as "all steel construction." No cast iron ~~((shall))~~ must be used in parts subject to tension except drums, bearings or brake shoes.

(2) The chains ~~((shall))~~ must be made of the best quality steel or iron with welded links.

(3) Chain and electric hoists ~~((shall))~~ must have a factor of safety of at least five.

(4) Chain and electric hoists ~~((shall))~~ must be equipped with a device which will automatically lock the load when hoisting is stopped.

(5) Electric hoists ~~((shall))~~ must be provided with a limit stop to prevent the hoist block from traveling too far in case the operating handle is not released in time.

(6) Workers ~~((shall))~~ must not ride the load of any chain or electric hoist. If necessary to balance the load manually, it ~~((shall))~~ must be done from a safe distance.

(7) The rated capacity of the hoist ~~((shall))~~ must be posted on both the hoist and the jib or rail.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-815 Monorail hoists. (1) No attempt ~~((shall))~~ must be made with a monorail hoist to lift or move an object by a side pull, unless designed for that purpose.

(2) A stop ~~((shall))~~ must be provided at all switches and turntables which will prevent the trolley from running off should the switch be turned or be left in the open position.

(3) All monorail hoists operating on swivels ~~((shall))~~ must be equipped with one or more safety catches which will support the load should a suspension pin fail. All trolley frames ~~((shall))~~ must be safeguarded against spreading.

(4) Rail stops ~~((shall))~~ must be provided at the ends of crane runways. Such rail stops ~~((shall))~~ must extend at least as high as the centers of the wheels.

(5) All monorail hoists ~~((shall))~~ must have the rated capacity posted on both the hoist and the rail.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-820 Air hoists. (1) To prevent piston rod lock nuts from becoming loose and allowing rods to drop when supporting a load, lock nuts ~~((shall))~~ must be secured to piston rods by a castellated nut and cotter-pin.

(2) A clevis, "D" strap or other means ~~((shall))~~ must be used to prevent the hoist cylinder becoming detached from the hanger.

(3) All air hoists ~~((shall))~~ must have their rated capacity posted on both the hoist and the jib or rail.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-825 Jib, pillar, and portable floor cranes, crabs, and winches. (1) Side pulls ~~((shall))~~ must not be made with jib or pillar cranes. The arm or boom ~~((shall))~~ must be directly over the load when making a lift.

(2) The gears of all cranes ~~((shall))~~ must be enclosed, and if hand operated by means of a crab or winch, a locking dog ~~((shall))~~ must be provided to hold load when the handle is released.

(3) Some form of brake or safety lowering device ~~((shall))~~ must be provided on all crabs, winches, and jib cranes.

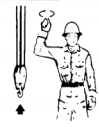
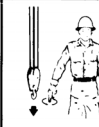
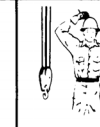

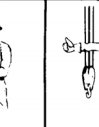



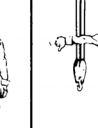
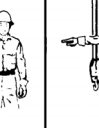



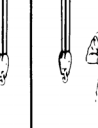
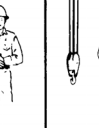
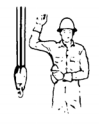

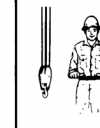


(4) A hoist limiting device ~~((shall))~~ must be provided on all jib cranes of ten or more tons capacity.

(5) The rated capacity of the hoisting device ~~((shall))~~ must be posted on the hoist and the arm or boom.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

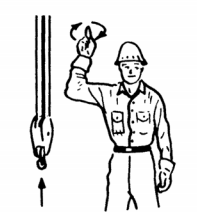
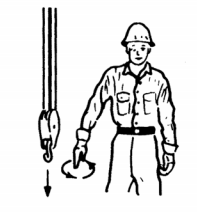
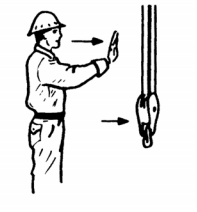

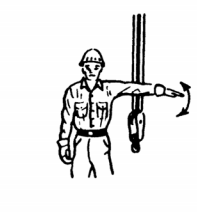
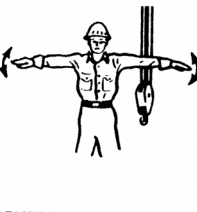
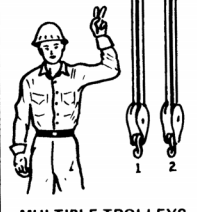
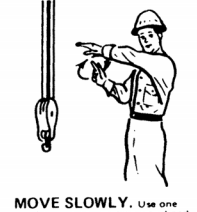
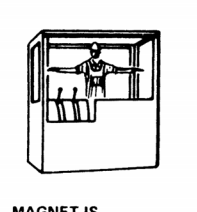
WAC 296-78-830 Standard crane hand signals—Illustrations. (1) The following hand signals ((~~shall~~)) must be used for crawler, locomotive, and truck cranes and a copy ((~~shall~~)) must be posted in the cab at the operator's station.

CRAWLER, LOCOMOTIVE, AND TRUCK CRANES

				
HOIST. With forearm vertical, forefinger pointing up, move hand in small horizontal circle.	LOWER. With arm extended downward, forefinger pointing down, move hand in small horizontal circles.	USE MAIN HOIST. Tap flat on head; then use regular signals.	USE WHIPLINE (Auxiliary Hoist). Tap elbow with one hand; then use regular signals.	RAISE BOOM. Arm extended, fingers closed, thumb pointing upward.
				
LOWER BOOM. Arm extended, fingers closed, thumb pointing downward.	MOVE SLOWLY. Use one hand to give any motion signal and place other hand motionless in front of hand giving the motion signal. (Hoist slowly shown as example.)	RAISE THE BOOM AND LOWER THE LOAD. With arm extended, thumb pointing up, flex fingers in and out as long as load movement is desired.	LOWER THE BOOM AND RAISE THE LOAD. With arm extended, thumb pointing down, flex fingers in and out as long as load movement is desired.	SWING. Arm extended, point with finger in direction of swing of boom.
				
STOP. Arm extended, palm down, hold position rigidly.	EMERGENCY STOP. Arm extended, palm down, move hand rapidly right and left.	TRAVEL. Arm extended forward, hand open and slightly raised, make pushing motion in direction of travel.	DOG EVERYTHING. Clasp hands in front of body.	TRAVEL (Both Tracks). Use both fists in front of body, making a circular motion about each other, indicating direction of travel: forward or backward. (For crawler cranes only.)
				
TRAVEL (One Track). Lock the track on side indicated by raised fist. Travel opposite track in direction indicated by circular motion of other fist, rotated vertically in front of body. (For crawler cranes only.)	EXTEND BOOM (Telescoping Booms). Both fists in front of body with thumbs pointing outward.	RETRACT BOOM (Telescoping Booms). Both fists in front of body with thumbs pointing toward each other.	EXTEND BOOM (Telescoping Boom). One Hand Signal. One fist in front of chest with thumb tapping chest.	RETRACT BOOM (Telescoping Boom). One Hand Signal. One fist in front of chest, thumb pointing outward and heel of fist tapping chest.

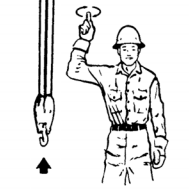
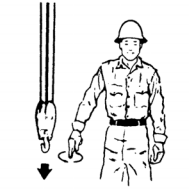

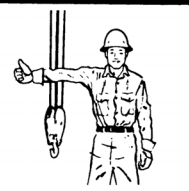
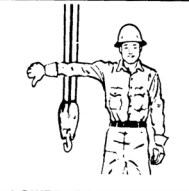
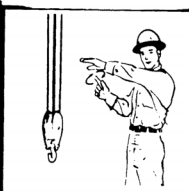
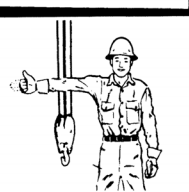
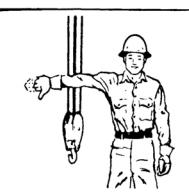
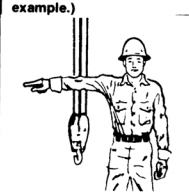
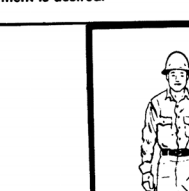
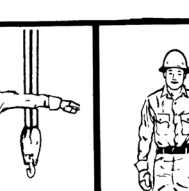
(2) The following hand signals ((~~shall~~)) must be used for overhead and gantry cranes and a copy ((~~shall~~)) must be posted in the cab at the operator's station.

STANDARD HAND SIGNALS FOR CONTROLLING OVERHEAD AND GANTRY CRANES

		
HOIST. With forearm vertical, forefinger pointing up, move hand in small horizontal circle.	LOWER. With arm extended downward, forefinger pointing down, move hand in small horizontal circles.	BRIDGE TRAVEL. Arm extended forward, hand open and slightly raised, make pushing motion in direction of travel.
		
TROLLEY TRAVEL. Palm up, fingers closed, thumb pointing in direction of motion, jerk hand horizontally.	STOP. Arm extended, palm down, move arm back and forth.	EMERGENCY STOP. Both arms extended, palms down, move arms back and forth.
		
MULTIPLE TROLLEYS. Hold up one finger for block marked "1" and two fingers for block marked "2". Regular signals follow.	MOVE SLOWLY. Use one hand to give any motion signal and place other hand motionless in front of hand giving the motion signal. (Hoist slowly shown as example.)	MAGNET IS DISCONNECTED. Crane operator spreads both hands apart, palms up.

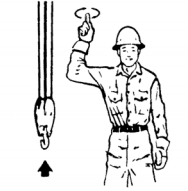
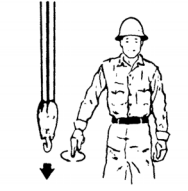
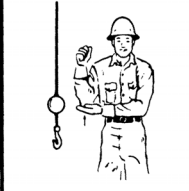
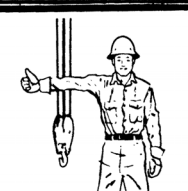
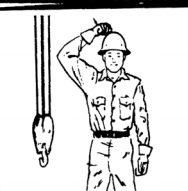

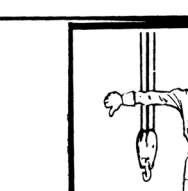
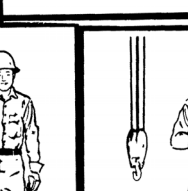
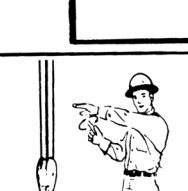
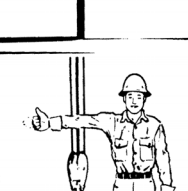
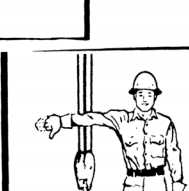
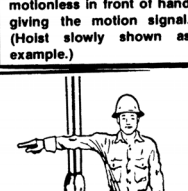
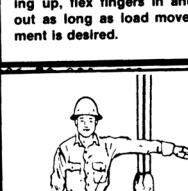
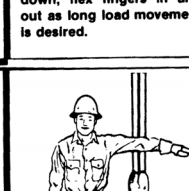
(3) The following hand signals ((~~shall~~)) must be used for derricks and a copy ((~~shall~~)) must be posted in the cab at the operator's station.

STANDARD HAND SIGNALS FOR CONTROLLING DERRICKS

		
HOIST. With forearm vertical, forefinger pointing up, move hand in small horizontal circle.	LOWER. With arm extended downward, forefinger pointing down, move hand in small horizontal circles.	DOG EVERYTHING. Clasp hands in front of body.
		
RAISE BOOM. Arm extended, fingers closed, thumb pointing upward.	LOWER BOOM. Arm extended, fingers closed, thumb pointing downward.	MOVE SLOWLY. Use one hand to give any motion signal and place other hand motionless in front of hand giving the motion signal. (Hoist slowly shown as example.)
		
RAISE THE BOOM AND LOWER THE LOAD. With arm extended, thumb pointing up, flex fingers in and out as long as load movement is desired.	LOWER THE BOOM AND RAISE THE LOAD. With arm extended, thumb pointing down, flex fingers in and out as long as load movement is desired.	SWING. Arm extended, point with finger in direction of swing of boom.
		
STOP. Arm extended, palm down, hold position rigidly.	EMERGENCY STOP. Arm extended, palm down, move hand rapidly right and left.	

(4) The following hand signals ((~~shall~~)) must be used for portal, tower, and pillar cranes and a copy ((~~shall~~)) must be posted in the cab at the operator's station.

STANDARD HAND SIGNALS FOR CONTROLLING PORTAL, TOWER AND PILLAR CRANES

		
HOIST. With forearm vertical, forefinger pointing up, move hand in small horizontal circle.	LOWER. With arm extended downward, forefinger pointing down, move hand in small horizontal circles.	USE WHIPLINE (Auxiliary Hoist). Tap elbow with one hand; then use regular signals.
		
RAISE BOOM. Arm extended, fingers closed, thumb pointing upward.	USE MAIN HOIST. Tap flat on head; then use regular signals.	EXTEND BOOM (Telescoping Boom). One Hand Signal. One flat in front of chest with thumb tapping chest.
		
LOWER BOOM. Arm extended, fingers closed, thumb pointing downward.	DOG EVERYTHING. Clasp hands in front of body.	
		
MOVE SLOWLY. Use one hand to give any motion signal and place other hand motionless in front of hand giving the motion signal. (Hoist slowly shown as example.)	RAISE THE BOOM AND LOWER THE LOAD. With arm extended, thumb pointing up, flex fingers in and out as long as load movement is desired.	LOWER THE BOOM AND RAISE THE LOAD. With arm extended, thumb pointing down, flex fingers in and out as long as load movement is desired.
		
SWING. Arm extended, point with finger in direction of swing of boom.	STOP. Arm extended, palm down, hold position rigidly.	EMERGENCY STOP. Arm extended, palm down, move hand rapidly right and left.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-78-835 Vehicles. (1) Vehicles.

(a) Scope. Vehicles ~~((shall))~~ must include all mobile equipment normally used in sawmill, planing mill, storage, shipping, and yard operations, including log sorting yards.

~~((Lift trucks.))~~ Lift trucks ~~((shall))~~ must be designed, constructed, maintained and operated in accordance with the requirements of WAC 296-24-230 through 296-24-23035 of the general safety and health standards.

(c) Carriers. Drive chains on lumber carriers ~~((shall))~~ must be adequately guarded to prevent contact at the pinch points.

~~((d))~~ Lumber carriers ~~((shall))~~ must be ~~((so))~~ designed and constructed so that the operator's field of vision ~~((shall))~~ will not be unnecessarily restricted.

~~((e))~~ Carriers ~~((shall))~~ must be provided with ladders or equivalent means of access to the operator's platform or cab.

~~((f))~~ Lumber hauling trucks.

~~((g))~~ On trucks where the normal operating position is ahead of the load in the direction of travel, the cab ~~((shall))~~ must be protected by a barrier at least as high as the cab. The barrier ~~((shall))~~ must be capable of stopping the weight of the load capacity of the vehicle if the vehicle were to be stopped suddenly while traveling at its normal operating speed. The barrier ~~((shall))~~ must be constructed in such a manner that individual pieces of a normal load will not go through openings in the barrier.

~~((h))~~ (i) Stakes, stake pockets, racks, tighteners, and binders ~~((shall))~~ must provide a positive means to secure the load against any movement during transit.

~~((i))~~ (ii) Where rollers are used, at least two ~~((shall))~~ must be equipped with locks which shall be locked when supporting loads during transit.

(2) Warning signals and spark arrestors. All vehicles ~~((shall))~~ must be equipped with audible warning signals and where practicable ~~((shall))~~ must have spark arrestors.

(3) Flywheels, gears, sprockets and chains and other exposed parts that constitute a hazard to workers ~~((shall))~~ must be enclosed in standard guards.

(4) All vehicles operated after dark or in any area of reduced visibility ~~((shall))~~ must be equipped with head lights and backup lights which adequately illuminate the direction of travel for the normal operating speed of the vehicle. The vehicle ~~((shall))~~ must also be equipped with tail lights which are visible enough to give sufficient warning to surrounding traffic at the normal traffic operating speed.

(5) All vehicles operated in areas where overhead hazards exist ~~((shall))~~ must be equipped with an overhead guard for the protection of the operator.

(6) Where vehicles are so constructed and operated that there is a possibility of the operator being injured by backing into objects, a platform guard ~~((shall))~~ must be provided and so arranged as not to hinder the exit of the driver.

(7) Trucks, lift trucks and carriers ~~((shall))~~ must not be operated at excessive rates of speed. When operating on tramways or docks more than six feet above the ground or lower level they ~~((shall))~~ must be limited to a speed of not

more than twelve miles per hour. When approaching blind corners they ~~((shall))~~ must be limited to four miles per hour.

(8) Vehicles ~~((shall))~~ must not be routed across principal thoroughfares while employees are going to or from work unless pedestrian lanes are provided.

(a) Railroad tracks and other hazardous crossings ~~((shall))~~ must be plainly posted.

(b) Restricted overhead clearance. All areas of restricted side or overhead clearance ~~((shall))~~ must be plainly marked.

(c) Pickup and unloading points. Pickup and unloading points and paths for lumber packages on conveyors and transfers and other areas where accurate spotting is required, ~~((shall))~~ must be plainly marked and wheel stops provided where necessary.

~~((Aisles, passageways, and roadways.))~~ Aisles, passageways, and roadways ~~((shall))~~ must be sufficiently wide to provide safe side clearance. One-way aisles may be used for two-way traffic if suitable turnouts are provided.

(9) Where an operator's vision is impaired by the vehicle or load it is carrying, ~~((he shall))~~ they must move only on signal from someone so stationed as to have a clear view in the direction the vehicle is to travel.

(10) Reserved.

(11) Load limits. No vehicle ~~((shall))~~ must be operated with loads exceeding its safe load capacity.

(12) Vehicles with internal combustion engines ~~((shall))~~ must not be operated in enclosed buildings or buildings with ceilings less than sixteen feet high unless the buildings have ventilation adequate to maintain air quality as required by the general occupational health standard, chapter 296-62 WAC.

(13) Vehicles ~~((shall))~~ must not be refueled while motor is running. Smoking or open flames ~~((shall))~~ must not be allowed in the refueling area.

(14) No employee other than trained operators or mechanics ~~((shall))~~ must start the motor of, or operate any log or lumber handling vehicle.

(15) All vehicles ~~((shall))~~ must be equipped with brakes capable of holding and controlling the vehicle and capacity load upon any grade or incline over which they may operate.

(16) Unloading equipment and facilities.

(a) Machines used for hoisting, unloading, or lowering logs ~~((shall))~~ must be equipped with brakes capable of controlling or holding the maximum load in midair.

(b) The lifting cylinders of all hydraulically operated log handling machines, or where the load is lifted by wire rope, ~~((shall))~~ must be equipped with a positive device for preventing the uncontrolled lowering of the load or forks in case of a failure in the hydraulic system.

(c) A limit switch ~~((shall))~~ must be installed on powered log handling machines to prevent the lift arms from traveling too far in the event the control switch is not released in time.

(d) When forklift-type machines are used to load trailers, a means of securing the loading attachment to the fork ~~((shall))~~ must be installed and used.

(e) A-frames and similar log unloading devices ~~((shall))~~ must have adequate height to provide safe clearance for swinging loads and to provide for adequate crotch lines and spreader bar devices.

(f) Log handling machines used to stack logs or lift loads above operator's head ~~((shall))~~ must be equipped with overhead protection.

(g) Unloading devices ~~((shall))~~ must be equipped with a horn or other plainly audible signaling device.

(h) Movement of unloading equipment ~~((shall))~~ must be coordinated by audible or hand signals when operator's vision is impaired or operating in the vicinity of other employees.

Lift trucks regularly used for transporting peeler blocks or cores ~~((shall))~~ must have tusks or a similar type hold down device to prevent the blocks or cores from rolling off the forks.

(17) Where spinners are used on steering wheels, they ~~((shall))~~ must be of the automatic retracting type or ~~((shall))~~ must be built into the wheel in such a manner as not to extend above the plane surface of the wheel. Vehicles equipped with positive antikickback steering are exempted from this requirement.

(18) Mechanical stackers and unstackers ~~((shall))~~ must have all gears, sprockets and chains exposed to the contact of workers, fully enclosed by guards as required by WAC 296-78-710 of this chapter.

(19) Manually operated control switches ~~((shall))~~ must be properly identified and so located as to be readily accessible to the operator. Main control switches ~~((shall))~~ must be ~~((se))~~ designed ~~((that))~~ so they can be locked in the open position.

(20) Employees ~~((shall))~~ must not stand or walk under loads being lifted or moved. Means ~~((shall))~~ must be provided to positively block the hoisting platform when employees must go beneath the stacker or unstacker hoist.

(21) No person ~~((shall))~~ must ride any lift truck or lumber carrier unless a suitable seat is provided, except for training purposes.

(22) Unstacking machines ~~((shall))~~ must be provided with a stopping device which ~~((shall at all times))~~ must be accessible at all times to at least one employee working on the machine.

(23) Floor of the unstacker ~~((shall))~~ must be kept free of broken stickers and other debris. A bin or frame ~~((shall))~~ must be provided to allow for an orderly storage of stickers.

(24) Drags or other approved devices ~~((shall))~~ must be provided to prevent lumber from running down on graders.

(25) Liquefied petroleum gas storage and handling. Storage and handling of liquefied petroleum gas ~~((shall))~~ must be in accordance with the requirements of WAC 296-24-475 through 296-24-47517 of the general safety and health standards.

(26) ~~((Flammable liquids.))~~ Flammable liquids ~~((shall))~~ must be stored and handled in accordance with WAC 296-24-330 through 296-24-33019 of the general safety and health standards.

(27) Guarding side openings. The hoistway side openings at the top level of the stacker and unstacker ~~((shall))~~ must be protected by enclosures of standard railings.

(28) Guarding hoistway openings. When the hoist platform or top of the load is below the working platform, the hoistway openings ~~((shall))~~ must be guarded.

(29) Guarding lower landing area. The lower landing area of stackers and unstackers ~~((shall))~~ must be guarded by

enclosures that prevent entrance to the area or pit below the hoist platform. Entrances should be protected by electrically interlocked gates which, when open, will disconnect the power and set the hoist brakes. When the interlock is not installed, other positive means of protecting the entrance ~~((shall))~~ must be provided.

(30) ~~((Lumber lifting devices.))~~ Lumber lifting devices on all stackers ~~((shall))~~ must be designed and arranged so as to minimize the possibility of lumber falling from such devices.

(31) Inspection. At the start of each work shift, equipment operators ~~((shall))~~ must inspect the equipment they will use for evidence of failure or incipient failure. Equipment found to have defects which might affect the operating safety ~~((shall))~~ must not be used until the defects are corrected.

(32) Cleaning pits. Safe means of entrance and exit ~~((shall))~~ must be provided to permit cleaning of pits.

(33) Preventing entry to hazardous area. Where the return of trucks from unstacker to stacker is by mechanical power or gravity, adequate signs, warning devices, or barriers ~~((shall))~~ must be erected to prevent entry into the hazardous area.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-84001 Loading, piling, storage and conveying—General. (1) Units or loads of lumber built up for transportation by overhead cranes, lift trucks, auto trucks, or manually or mechanically operated transfers ~~((shall))~~ must be provided with at least one set of stickers for each eighteen inches in height of unit or load. One set of stickers ~~((shall))~~ must be not more than six inches from the top of units of lumber up to three inch dimension. Where dimension of material is greater than three inches, a set of stickers ~~((shall))~~ must be placed under the top layer. Stickers ~~((shall))~~ must extend the full width of the package, ~~((shall))~~ must be uniformly spaced, and ~~((shall))~~ must be aligned one above the other. Stickers may be lapped with a minimum overlapping of twelve inches. Stickers ~~((shall))~~ must not protrude more than two inches beyond the sides of the package.

(2) Lumber loading. Loads ~~((shall))~~ must be built and secured to insure stability in transit.

(3) Units or loads of lumber ~~((shall))~~ must not be lifted or moved until all workers are in the clear.

(4) Gradient of roll sets or roll cases over which units of lumber are to be moved ~~((shall))~~ must not exceed three percent. The movement of units ~~((shall))~~ must be under control at all times.

(5) Stacking of lumber in yards, either by units or in block piles, ~~((shall))~~ must be conducted in a safe and orderly manner.

(6) Foundations for piling lumber in yards ~~((shall))~~ must be capable of supporting the maximum applied load without tipping or sagging.

(7) The height of stacked units in storage areas ~~((shall))~~ must not exceed seven of the usual four foot units, subject to the following qualifications:

(a) Units of lumber ~~((shall))~~ must not be stacked more than four high unless two or more stacks of units are tied together with ties.

(b) Long units of lumber ~~((shall))~~ must not be stacked upon shorter packages except where a stable pile can be made with the use of package separators.

(c) In unit package piles, substantial polsters or unit separators ~~((shall))~~ must be placed between each package directly over the stickers.

(8) Wooden horses used for loading preformed loads of lumber ~~((shall))~~ must be of material not less than four by six inches in cross section net measure.

(9) Unstable piles. Piles of lumber which have become unstable ~~((shall))~~ must be immediately made stable or removed.

(10) Lift boards or pallets ~~((shall))~~ must be loaded in such a manner as to prevent material from spilling or the material ~~((shall))~~ must be secured with a binder.

(11) Packing rooms ~~((shall))~~ must be kept free of debris and chutes ~~((shall))~~ must be equipped with a means of slowing down the materials.

(12) Sorting chains ~~((shall))~~ must be provided with a stopping device which ~~((shall at all times))~~ must be readily accessible at all times to at least one employee working on the chain.

(13) The inside of the walkway of all green chains and sorting tables shall be provided with a standard toeboard.

(14) Rollers or other devices ~~((shall))~~ must be provided for removing heavy dimension lumber from the cabin or table.

(15) Roll casings and transfer tables ~~((shall))~~ must be cleaned regularly and ~~((shall be))~~ kept reasonably free from debris.

(16) In all permanent installations, green chains and sorting tables ~~((shall))~~ must be roofed over to provide protection from inclement weather. Normal work stations ~~((shall))~~ must be provided with a drained work surface which is evenly floored of nonslip material.

(17) Power driven rolls ~~((shall))~~ must be operated in a manner to prevent end collisions.

(18) The space between live rolls ~~((shall))~~ must be filled in on either side of crosswalks with material of structural strength to withstand the load imposed with a four to one safety factor.

(19) The driving mechanism of live rolls ~~((shall))~~ must be guarded wherever exposed to contact.

(20) Live rolls ~~((shall))~~ must be replaced when their surface develops a break or hole.

(21) Guarding. Spiked live rolls ~~((shall))~~ must be guarded.

(22) Ramps or skidways used to transfer lumber or materials from one level to another ~~((shall))~~ must be provided with all safeguards necessary for the protection of workers.

(23) Landings on a lower level where lumber or timbers are discharged over ramps or skidways ~~((shall))~~ must be provided with a solid bumper not less than six inches in height at the outer edge. Such landing ~~((shall))~~ must be maintained in good repair at all times.

(24) Ramps or skidways ~~((shall))~~ must be ~~((so))~~ arranged so that the person putting lumber down ~~((shall have))~~ has a

clear view of the lower landing. Lumber or timbers ~~((shall))~~ must not be put down until all workers are in the clear.

~~((25))~~ ~~((a))~~ The under face of all ramp or skidway landings ~~((shall))~~ must be fenced off or other positive means provided to prevent persons from walking out under dropping timber.

~~((b))~~ (26) Return strands of sorting table ramp chains ~~((shall))~~ must be supported by troughs of sufficient strength to support the weight of a broken chain.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-84003 Conveyors. (1) Construction, operation, and maintenance of conveyors ~~((shall))~~ must be in accordance with American National Standard B20.1 - 1957, Safety Code for Conveyors, Cableways and related equipment.

(2) Conveyor troughs in which the working strands of a conveyor operate ~~((shall))~~ must be of ample dimension and strength to carry a broken chain and ~~((shall))~~ must afford effective protection to all employees.

(3) When the return strand of a conveyor operates within seven feet of the floor there ~~((shall))~~ must be a trough provided of sufficient strength to carry the weight resulting from a broken chain.

(4) When the return strands of a conveyor pass over passageways or work areas such guards ~~((shall))~~ must be placed under them as they will effectively protect workers.

(5) When the working strand of a conveyor crosses within three feet of the floor level in passageways, the trough in which it works ~~((shall))~~ must be bridged the full width of the passageway.

(6) Where conveyor, idler pulleys or other equipment is located over or dangerously near burning refuse, any worker going to such location ~~((shall))~~ must use a safety line which ~~((shall))~~ must be securely fastened to his body and tended by a helper.

(7) Conveyors ~~((shall))~~ must be provided with an emergency panic-type stopping device which can be reached by a person in a sitting position on the conveyor. Such devices ~~((shall))~~ must be located near the material entrance to each barker, chipper, hog, saw, or similar type of equipment except where the conveyor leading into such equipment is under constant control of an operator who has full view of the material entrance and is located or restrained where he/she cannot possibly fall onto the conveyor. The device ~~((shall))~~ must stop the conveyor a sufficient distance away from the hazard to prevent injury or further injury by the hazard.

(8) Screw or auger type conveyor troughs and boxes ~~((shall))~~ must be equipped with covers. If it is not practical to cover the troughs or boxes, other equivalent type guards ~~((shall))~~ must be provided.

AMENDATORY SECTION (Amending WSR 05-20-055, filed 10/3/05, effective 12/1/05)

WAC 296-78-84005 Dry kilns. (1) Transfer, kiln and dolly tracks ~~((shall))~~ must be properly maintained at all times and ~~((shall))~~ must have a grade of not more than one and one-fourth percent. Bumpers or stops ~~((shall))~~ must be installed at

the ends of all tracks capable of stopping a normal load for which the track is installed. A means ~~((shall))~~ must be provided for chocking or blocking cars.

(2) Doors.

(a) ~~((Main kiln doors.))~~ Main kiln doors ~~((shall))~~ must be provided with a method of holding them open while kiln is being loaded.

(b) Counterweights on vertical lift doors ~~((shall))~~ must be boxed or otherwise guarded.

(c) Means ~~((shall))~~ must be provided to firmly secure main doors, when they are disengaged from carriers and hangers, to prevent toppling.

(3) Kilns whose operation requires inside inspection ~~((shall))~~ must be maintained with not less than eighteen inches clearance between loaded cars and the walls of the kiln. The requirements for personal protective equipment specified in WAC 296-800-160, safety and health core rules, and chapter 296-842 WAC, Respirators, ~~((shall))~~ must be complied with.

(4) Kiln loads ~~((shall))~~ must be equipped or arranged for easy attachment and detachment of transfer cables. Means for stopping kiln cars ~~((shall))~~ must be available at all times.

(5) Cars ~~((shall))~~ must not be moved until tracks are clear and workers are out of the bight of transfer lines.

(6) When kiln or dolly loads of lumber are permitted to coast through or adjacent to any work area, an audible warning ~~((shall))~~ must be given.

(7) Stickers ~~((shall))~~ must not be allowed to protrude more than two inches from the sides of kiln stacks.

(8) Yards and storage areas ~~((shall))~~ must be kept reasonably free of debris and unnecessary obstruction. Warning signs ~~((shall))~~ must be conspicuously posted wherever there is danger from moving vehicles or equipment.

AMENDATORY SECTION (Amending WSR 96-17-056, filed 8/20/96, effective 10/15/96)

WAC 296-78-84007 Chippers and hogs. (1) Chippers. The feed system to the chipper ~~((shall))~~ must be arranged so the operator does not stand in direct line with the chipper spout (hopper). The chipper spout ~~((shall))~~ must be enclosed to a height or distance of not less than forty inches from the floor or the operator's station. A safety belt and lifeline ~~((shall))~~ must be worn by workers when working at or near the spout unless the spout is guarded. The lifeline ~~((shall))~~ must be short enough to prevent workers from falling into the chipper.

(2) Hog mills ~~((shall))~~ must be provided with feed chutes ~~((se))~~ designed and arranged so that from no position on the rim of the chute ~~((shall))~~ will the distance to the knives or feed roll be less than forty inches. Baffles ~~((shall))~~ must be provided which ~~((shall))~~ must effectively prevent material from being thrown from the mill.

(3) Employees feeding hog mills ~~((shall))~~ must be provided with safety belts and lines, which they ~~((shall be))~~ are required to use at all times, unless otherwise protected from any possibility of falling into the mill.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-84009 Bins and bunkers. (1) Bins, bunkers, hoppers, and fuel houses. Guarding. Open bins, bunkers, and hoppers whose upper edges extend less than three feet above working level ~~((shall))~~ must be equipped with standard handrails and toeboards, or have their tops covered by a substantial grill or grating with openings small enough to prevent a person from falling through.

(2) Fuel hoppers ~~((shall))~~ must be provided with doors that may be remotely operated.

(3) Fuel hoppers ~~((shall))~~ must be provided with platforms with standard railings and adequately lighted for the protection of workers taking out fuel.

(4) ~~((a))~~ Fuel bins ~~((shall))~~ must be provided with an approved railed platform or walkway near the top or other approved means, for the use of employees engaged in dislodging congested fuel. No employee ~~((shall))~~ must enter any fuel bin except where adequately safeguarded.

~~((b))~~ (a) Recognizing however, the varying designs of fuel storage vaults and the type of fuel handled and certain peculiar local conditions, the adequacy of safety devices ~~((shall))~~ must be determined by a duly authorized representative of the department of labor and industries, division of industrial safety and health.

~~((c))~~ (b) During operations when the flow of normal fuel is interrupted but dust from operating sanders is received in the bin, workers ~~((shall))~~ must not enter the fuel bin until the flow of sander dust has been discontinued and the dust has settled.

~~((d))~~ (c) Use of wheeled equipment to load bins. Where automotive or other wheeled equipment is used to move materials into bins, bunkers, and hoppers, adequate guard rails ~~((shall))~~ must be installed along each side of the runway, and a substantial bumper stop provided when necessary.

AMENDATORY SECTION (Amending WSR 81-18-029, filed 8/27/81)

WAC 296-78-84011 Burners. (1) Burners and smoke stacks, other than the self-supporting type ~~((shall))~~ must be adequately guyed. Buckle guys ~~((shall))~~ must be installed if a burner or stack is more than fifty feet in height.

(2) Runway. The conveyor runway to the burner ~~((shall))~~ must be equipped with a standard handrail. If the runway crosses a roadway or thoroughfare, standard toeboards ~~((shall))~~ must be provided in addition.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-79-010 Scope and application. (1) This chapter applies to establishments, firms, persons and corporations that manufacture, process, store, finish, or convert pulp, paper or paperboard and includes all buildings, machinery, and equipment.

(2) This chapter ~~((shall))~~ will augment the Washington state general safety and health standards (chapter 296-24 WAC), general occupational health standards (chapter 296-62 WAC), and safety and health core rules (chapter 296-800

WAC). In the event of any conflict between any portion of this chapter and any portion of any of the general application standards, the provisions of this chapter 296-79 WAC, ~~(shall)~~ will prevail.

(3) The rules contained in this chapter are minimum requirements and the use of additional guards, or other means, methods or procedures may be needed to make the work or place of work safe.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-011 Definitions. ~~((=))~~**Authorized**~~((=One))~~. A person who is qualified by reason of training and to whom the responsibility to perform a specific assignment has been given by the employer.

~~((=))~~**Guarded**~~((=))~~. The means to remove the likelihood of approach or contact by persons or objects to a point of danger.

~~((=))~~ **Hazardous material system.** Any system within the following classifications:

(a) Flammable or explosive - Any system containing materials which are hazardous because they are easily ignited and create a fire or explosion hazard, defined by NFPA as Class I liquids;

(b) Chemically active or toxic - Any system containing material which offers corrosion or toxic hazard in itself or can be productive of harmful gases upon release, defined by NFPA 704M as Class 3 and 4 materials;

(c) Thermally hazardous - Any system above 130°F which exposes persons to potential thermal burns;

(d) Pressurized - Any gaseous system above 200 psig or liquid system above 500 psig.

Knowledgeable~~((=))~~. The demonstrated ability to communicate the safe work practices required to perform a job or task correctly.

~~((=))~~**Piping system.** Any fixed piping, either rigid pipe or flexible hose, including all fittings and valves, in either permanent or temporary application.

Qualified~~((=One))~~. A person who is familiar with the construction and operation of the equipment and the duties of the position they may be filling. This includes being aware of the hazards of the job and the means and procedures necessary to eliminate or control those hazards.

~~((=Training))~~ The procedure that must establish and document the employee's competency in the work practices that they are required to perform.

~~((=))~~**Shall**~~((=))~~ or ~~((=))~~**must**~~((=))~~. As used in this standard means the requirement is compulsory.

~~((=May or should))~~ **Should or may.** As used in this standard to identify recommendations or suggestions only.

Training. The procedure that must establish and document the employee's competency in the work practices that they are required to perform.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-79-020 General requirements. (1) House-keeping.

~~((=))~~ Floors must be kept reasonably clear of spilled or leaking oil, grease, water, broke, etc., that may cause slipping, tripping or falling. Nonskid type surfacing must be installed in vehicular or pedestrian traffic areas where slipping hazards otherwise would exist.

~~((=))~~ (a) In areas where it is not possible to keep the floor free of materials which cause a slipping hazard, mats, cleats, or other suitable materials which will effectively minimize or eliminate the hazard must be installed.

(b) Hoses, cords, slings or similar items or equipment must be stored in such a manner that they will not create a hazard.

(2) Storage and transportation of materials. Materials, objects or equipment must be stored or transported by methods which will prevent them from falling, tipping or rolling.

(3) Warning of open manholes or excavations. Open manholes or excavations must be:

~~((=))~~ (a) Roped off, barricaded, or adequately safeguarded when located in or adjacent to walkways, aiseways, or roadways.

~~((=))~~ (b) Provided with warning lights or lanterns during periods of darkness or reduced visibility.

(4) Training. Employees must receive proper instruction and be familiar with safe operating procedures:

(a) Before they supervise the operation, or make adjustments to any machine or equipment.

(b) To be able to cope with emergencies arising from breaks, ruptures, or spills which would create a hazardous condition.

(c) For lifting and moving objects. Mechanical devices should be used or employees should ask for assistance in lifting or moving heavy objects.

(d) On prompt reporting of any faulty equipment or hazardous condition to the person in charge.

(5) Working alone. When an employee is assigned to work alone in a remote or isolated area, procedures must be developed to ensure:

~~((=))~~ (a) That the employee reports by use of radio or telephone to someone periodically; or

~~((=))~~ (b) That at reasonable intervals a designated person must check on the employee; and

~~((=))~~ (c) That all persons involved in working alone are advised of the procedures to be followed.

(6) Exits from hazardous areas. Where physically and reasonably possible, there must be at least two unobstructed exits from any hazardous area. Such exits should be on opposite walls.

(7) Safe work area. Sufficient clearance must be maintained between machines to allow employees a safe work area.

(8) Protection from overhead hazard. Warning signs/devices must be:

~~((=))~~ (a) Placed in conspicuous locations below areas where overhead work is being done; and

~~((=))~~ (b) Removed promptly when work is completed and the overhead hazard no longer exists.

(9) Welding areas protected.

(a) Areas in which welding is being done must be screened or barricaded to protect persons from flash burns, when practical.

(b) If the welding process cannot be isolated, all persons who may be exposed to the hazard of arc flash must be properly protected.

(10) Testing safety devices. Brakes, back stops, anti-run-away devices, overload releases, emergency stops, and other safety devices must be inspected and tested frequently to ensure that all are operative and maintained in good repair.

(11) Starting and stopping devices.

(*) (a) Electrically or manually operated power starting or stopping devices must be provided within easy reach of the operator from the normal operating position.

(*) (b) If necessary for safety of the operation, the machine must be so equipped that retarding or braking action can be applied at the time of or after the source of power is deactivated.

(12) Interlocks:

(a) Interlocks that affect the safety of employees must not be bypassed except where ((the employer)) you demonstrate((s that)) alternate procedures or devices that provide a level of safety for employees equivalent to ((that)) those provided by the safety interlock. Interlocks are considered to be bypassed anytime the designed control strategy is bypassed by means including, but not limited to, a temporary wiring change, physical interference or a temporary software change of "force."

(b) Prior to bypassing a safety interlock ((the employer)) you must:

(*) (i) Develop a written procedure detailing how the bypass will be accomplished and the alternate means of protecting employees((-));

(*) (ii) Inform affected employees of all pertinent information including at a minimum the reason for the change, the date of the change, who is responsible for the change, and approximately how long the change will be in effect((-); and

(*) (c) Post appropriate warning of the change on the equipment or area.

(13) Designing control systems. ((Employers)) You must ensure that all control systems are designed to:

(*) (a) Ensure that the system does not create an unsafe state that endangers personnel((-);

(*) (b) Ensure that when control systems fail, the equipment being controlled fails to a safe state((-); and

(*) (c) Have an independent method to safely stop the process or equipment, such as a hardwired emergency stop button or other controls that deenergize the system, or independent methods to force the system to a safe state.

(14) Compressed air.

(a) Compressed air must not be used for cleaning clothing that is being worn, or if it will endanger persons in the area.

(b) Sections of high pressure air hoses must be properly coupled and have safety chains or equivalent safety device attached between the sections (30 psi or more is high pressure air).

(15) Punch bars. Open pipes must not be used as punch bars if the use would create a hazard.

(16) Saw table limit stop or extension. Employees must be protected from contact with the front edge of a circular saw by:

(*) (a) A limit stop which will prevent the forward swing of the cutting edge from extending beyond the edge of the table; or

(*) (b) Installation of a table extension.

(17) Powder-actuated tools.

(*) (a) Powder-actuated tool design, construction, operation and use ((shall)) must comply with all requirements specified in "safety requirements for powder actuated fastening systems," (see chapter 296-24 WAC, Part H-1).

(*) (b) A careful check must be made to ensure that no cartridges or charges are left where they could enter equipment or be accidentally discharged in any area where they could create a fire or explosion hazard.

(18) Ladders required on waterfront docks. ((Employers)) You must ensure that either permanent ladders or portable ladders:

(*) (a) Are readily available for emergency use on all waterfront docks((-);

(*) (b) Extend from the face of the dock to the water line at its lowest elevation((-);

(*) (c) Are installed at intervals not to exceed 400 feet((-);

(*) (d) Are noticeable by painting the dock area immediately adjacent to the ladder with a bright color which contrasts with the surrounding area((-); and

(*) (e) Have been secured with a suitable method.

Note: When working on or around water also see WAC 296-800-160.

(19) Prevent overhang while removing materials. Extreme care must be taken to prevent material from creating an overhang while removing the materials from piles or bins.

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-79-030 Guards and guarding. For additional guarding requirements see chapter 296-806 WAC, Machine safety.

(1) Safeguarding specific areas, machines or conditions. Certain equipment, tools, machines, and areas present definite hazards and must be safeguarded by compliance with the following requirements:

(a) Broke shredder((-)) cutting heads must be completely enclosed except for opening at feed side sufficient only to permit entry of stock. The enclosure must be:

(*) (i) Bolted or locked in place((-); and

(*) (ii) Of solid material or with mesh or other openings not exceeding 1/2 inch.

(b) Stitching or sewing machine. Carton or bag stitching machines must be properly safeguarded to prevent persons from coming in contact with the stitching head and other pinch or nip points.

(c) Beaters and pulpers.

(i) A guardrail of standard height must be installed when the top edge of vessels or tubs is less than standard height guardrails above the floor or operator's platform. If necessary for the protection of the person feeding equipment, an intermediate guardrail or other suitable protection shall be installed.

(ii) Beater rolls must be provided with covers.

(d) First dryer. A permanent guard or apron guard, or both, must be installed to protect workers from any exposed ingoing nip of the first dryer drum in each section if the area is accessible to workers while the dryer is in operation.

(e) Floor and drain openings. Floor and drain openings in walkways and general work areas must be covered with material or gratings with openings no larger than 2" in the narrow dimension.

(f) Mechanical devices to dump chip cars, trucks or trailers.

((*) (i) When using mechanical equipment to elevate the front end of the chip containers for dumping into a hopper, the shear area between the floor and the elevated section must be safeguarded.

((*) (ii) The pit area must be adequately safeguarded or barricaded.

((*) (iii) Safeguards must be installed around the exposed sides of a chip hopper.

(2) Replacing guards. All permanent guards must be replaced or adequate temporary safeguards provided before a machine is put into operation.

(3) Protection from moving materials. When material, such as chunks, slivers, cants, or logs, could be thrown or flipped by a saw, barker, or other machines, adequate barricades, screens, netting, or other safeguards must be provided and maintained.

(4) Protection for areas where guards are impractical. When normal guarding is impractical:

((*) (a) The hazard must be reduced to a minimum by use of safety chains, lifelines, signs or other reasonable means(-); and

((*) (b) Areas which present a hazard which cannot be reasonably safeguarded must be identified by use of paint or other materials.

(5) Knives and scissors.

(a) Knives used for chip or hog fuel machines, or guillotine cutters, must be secured in properly constructed containers during transportation.

(b) Workers must be furnished properly designed and constructed sheaths for safely carrying knives and scissors used for cutting or trimming pulp and paper.

(c) Tables where paper is being cut must be equipped with sheaths or shelves for safe storage of knives and scissors.

(d) Sharp edged slitter knives subject to accidental contact must be effectively guarded. Carriers must be provided and used when transporting or carrying sharp edged slitter knives.

(e) Hand knives and sharpening steels used in paper preparation, must be provided with guards at the junction of the handle and the blade. Utility knives with blade exposure two and one-half inches or less are exempted from this requirement.

(6) Safeguard for foot operated treadle switch used to activate power driven equipment. Foot operated treadle switches used for activation of power driven equipment must be protected by a stirrup type guard or equivalent protection must be provided to prevent accidental activation.

(7) Automatic pressure actuated stopping devices. Hand fed machines and other moving equipment which create

shear or pinch points which cannot be reasonably guarded may be safeguarded by the installation of pressure activated bars or sensing devices which, when contacted, will automatically stop the machine or equipment.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-79-050 Personal protection clothing and equipment. See WAC 296-800-160 for additional personal protective equipment requirements.

(1) Rings or other jewelry that could create a hazard should not be worn by employees while in the performance of their work.

(2) Protective footwear.

((*) (a) Employees who work in areas where there is a possibility of foot injury due to falling or rolling objects must wear safety type footwear.

((Employers)) (b) You will supply shoe guards and toe protectors.

((Employers)) (c) You must also make safety shoes available for purchase by employees at not more than actual cost to ((the employer)) you.

(3) Calks or other suitable footwear that will afford reasonable protection from slipping must be:

((*) (a) Worn while working on logs(-); and

((*) (b) Made available at not more than actual cost to the employer.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-070 Illumination. (1) Illumination required. Lighting that is adequately adjusted to provide a margin of safety for all work tasks must be provided and maintained.

(a) The minimum level of task lighting for all indoor activities must be an average of ten-foot candles measured thirty inches above the floor or at the task.

(b) The minimum level of task lighting for all outdoor activities must be an average of five-foot candles measured thirty inches above the working surface or at the task.

(2) If general lighting is not provided throughout the work area, ((the employer)) you must provide illumination which is adequately adjusted to provide visibility of nearby objects that might be potential hazards or to see to operate emergency control or other equipment. The minimum level of nontask lighting for all indoor and outdoor activities must be an average of three-foot candles measured thirty inches above the floor or working surface.

Note: This section establishes minimal levels of illumination for safety purposes only. Guidelines pertaining to optimal levels of lighting and illumination may be found in practice for Industrial Lighting, ANSI/IES RP7-1979. The minimum levels specified in subsections (1) and (2) of this section represent averages with the lowest level in an area to be no less than fifty percent of the indicated value.

(3) Emergency or secondary lighting system required.

(a) There must be an emergency or secondary lighting system that can be actuated immediately upon failure of the normal power supply system. The emergency or secondary

lighting system must provide illumination in the following areas:

(*) (i) Wherever it is necessary for workers to remain at their machine or station to shut down equipment in case of power failure.

(*) (ii) At stairways and passageways or aiseways used by workers as an emergency exit in case of power failure.

(b) Emergency lighting facilities must be checked at least every 30 days for mechanical defects. Defective equipment must be given priority for repair schedule.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-110 Elevated runways and ramps used by vehicles. (1) Runways and ramps must:

(a) Be cleated, grooved, rough surfaced, or covered with a material that will minimize the danger of skidding(-); and

(b) Not have a maximum incline exceeding 20° from horizontal if used for wheeled equipment.

(2) Guarding exposed sides.

(*) (a) Elevated ramps or runways used for the travel of wheeled equipment must have exposed sides guarded with a substantial bull rail or shear rail of sufficient height to prevent wheeled equipment from going over the rail.

(*) (b) If elevated ramps or runways are used by pedestrians, standard guardrails must be installed on runways wherever the height exceeds 4 feet above the adjacent area except where used for loading or unloading purposes.

AMENDATORY SECTION (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

WAC 296-79-140 Installation, inspection, and maintenance of pipes, piping systems, and hoses. (1) ~~(Definitions applicable to this section:~~

"Hazardous material system"—Any system within the following classifications:

• ~~Flammable or explosive—Any system containing materials which are hazardous because they are easily ignited and create a fire or explosion hazard, defined by NFPA as Class I liquids;~~

• ~~Chemically active or toxic—Any system containing material which offers corrosion or toxic hazard in itself or can be productive of harmful gases upon release, defined by NFPA 704M as Class 3 and 4 materials;~~

• ~~Thermally hazardous—Any system above 130°F which exposes persons to potential thermal burns;~~

• ~~Pressurized—Any gaseous system above 200 psig or liquid system above 500 psig.~~

"Piping system"—Any fixed piping, either rigid pipe or flexible hose, including all fittings and valves, in either permanent or temporary application:

(2)) Design and installation. All new piping systems intended to be used in hazardous material service must be designed and installed in accordance with applicable provisions of the ASME Code for Pressure Piping or in accordance with applicable provisions of ANSI B31.1-1995 through B31.8-1995.

~~((3))~~ (2) Inspection and maintenance.

(a) ~~((The employer))~~ You must develop a formal program of installation inspections and maintenance for all hazardous material piping systems. The program must be:

(*) (i) Based on sound maintenance engineering principle(-~~and~~);

(*) (ii) Demonstrate due consideration for the manufacturing specifications of the pipe, hose, valves and fittings, the ambient environment of the installation and the corrosive or abrasive effect of the material handled within the system(-); and

(b) Type and frequency of tests and/or inspections and selection of inspection sites must be adequate to give indications that minimum safe design operating tolerances are maintained. The tests may include visual or nondestructive methods.

~~((4))~~ (3) Inspection records.

(a) Results of inspections and/or tests must be maintained as a record for each system. Portions of systems that are buried or enclosed in permanent structures in such a manner as to prevent exposure to employees even in the event of a failure, may be exempted from the inspection requirements only.

(*) (i) Past records may be discarded provided the current inspection report and the immediately preceding two reports are maintained.

(*) (ii) When a system is replaced, a new record must be established and all past records may be discarded.

(b) Upon request the records for each system must be made available for review by the department of labor and industries.

~~((5))~~ (4) Systems or sections of systems found to be below the minimum design criteria requirements for the current service must be repaired or replaced with component parts and methods which equal the requirements for new installations.

~~((6))~~ (5) Identification of piping systems. ~~((a))~~ USAS A13.1-1956, "Scheme for Identification of Piping Systems," must be followed.

(6) Positive identification of a piping system content:

(*) (a) Must have a lettered legend giving the name of the content in full or abbreviated form, or a commonly used identification system(-);

(*) (b) Must be made and maintained at suitable intervals and at valves, fittings, and on both sides of walls or floors as needed(-);

(*) (c) May have arrows to indicate the direction of flow(-); and

(*) (d) May provide necessary supplementary information, such as hazard of use. This may be done by additional legend or by color applied to the entire piping system or as colored bands. Legends may be placed on colored bands.

(7) Examples of legend which may give both positive identification and supplementary information regarding hazards or use are:

- Ammonia Hazardous liquid or gas
- Chlorine Hazardous liquid or gas
- Chlorine dioxide Hazardous liquid or gas
- Sulphur dioxide Hazardous gas

Liquid caustic	Hazardous liquid
Liquid sulphur	Hazardous liquid
Sulphuric acid	Hazardous liquid
Sodium chlorate	When dry, danger of fire or explosion

Note: Manual L-1, published by Chemical Manufacturers Association, Inc., is a valuable guide in respect to supplementary legend.

((*) (a) When color, applied to the entire piping system or as colored bands, is used to give supplementary information it should conform to the following:

CLASSIFICATION	PREDOMINANT COLOR
F—Fire-protection equipment	Red
D—Dangerous materials	Yellow (or orange)
S—Safe materials	Green (or the achromatic colors, white, black, gray or aluminum)

and, when required,

P—Protective materials	Bright blue
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(b) When legend systems are used, legend boards showing the color and identification scheme in use must be prominently displayed at each plant. They must be located so that employees who may be exposed to hazardous material piping systems will have a frequent reminder of the identification program.

(c) All employees who work in the area of hazardous material piping systems must be given training in the color and identification scheme in use.

((7)) (8) Steam hoses. Steam hoses must be specifically designed to safely carry steam at any pressures to which they may be subjected.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-150 Powered industrial trucks and other equipment. Additional requirements on mobile equipment and lift trucks are in chapter ((296-24 WAC, Part D)) 296-863 WAC.

- (1) The operator of a power-driven vehicle must test the brakes, steering gear, lights, horns, warning devices, clutches, etc., before operating vehicle.
- (2) Control levers of lift trucks, front end loaders, or similar types of equipment must not be operated except when the operator is in the proper operating position.
- (3) No person may be permitted to ride on a powered hand truck unless it is so designed by the manufacturer. A limit switch must be on the operating handle—30 degrees each way from a 45-degree angle up and down.
- (4) Employees must not work below the raised bed of a dump truck, raised buckets of front end loaders, raised blades

of tractors or in similar positions without blocking the equipment in a manner that will prevent it from falling.

(5) Reporting suspected defects. If, in the opinion of the operator, a power-driven vehicle is unsafe, the operator must report the suspected defect immediately to the person in charge. Any defect that would make the vehicle unsafe to operate under existing conditions will be cause to take the vehicle out of service and it must not be put back into use until it has been made safe.

(6) Vehicle operators must have a reasonably unobstructed view of the direction of travel, or, where this is not possible, the operator must be directed by a person or by a safe guidance means or device. Where practical, mirrors must be installed at blind corners or intersections that will allow operators to observe oncoming traffic.

(7) Vehicles in congested areas must operate with a warning light.

(8) Passengers must not be permitted to ride with legs or arms extending outside any vehicle nor must they be permitted to ride unless a passenger seat or other protective device is provided.

(9) Guard on operator's platform. Every power truck operated from an end platform or standing position must be:

((*) (a) Equipped with a platform extending beyond the operator's position((7)); and

((*) (b) Strong enough to withstand a compression load equal to the weight of the loaded vehicle applied along the longitudinal axis of the truck with the outermost projection of the platform against the flat vertical surface.

(10) Cleaning vehicles. All vehicles must be kept free of excessive accumulations of dust and grease that may present a hazard.

(11) Vehicles must be controlled manually while being pushed or towed except when a tow bar is used. Pushing of vehicles or railroad cars with the forks or clamps of a lift truck is prohibited.

(12) Aisles or passageways should be at least three feet wider than the widest vehicle or load traveling the aisle or passageway. When this clearance cannot be maintained, adequate precautions must be taken.

(13) The forks, clamps, or attachments of lift trucks must be kept as low as possible while the vehicle is moving.

(14) The hoisting of personnel by lift trucks must meet the requirements in WAC ((296-24-230)) 296-863-40060.

(15) Exhaust systems on lift trucks and jitneys shall be constructed to discharge either within 20 inches from the floor or 84 inches or more above the floor.

(16) Mobile equipment with an enclosed cab must be provided with an escape hatch or other method of exit in case the regular exit cannot be used.

(17) Suitable methods must be used or devices installed which will prevent the trailer from tipping while being loaded or unloaded.

(18) Whenever vehicles using LP gas as a fuel are parked overnight or stored for extended periods of time indoors, with the fuel container in place, the service valve of the fuel container must be closed.

(19) The use of spinners on steering wheels must be prohibited unless an anti-kick device is installed or the equipment has a hydraulic steering system.

(20) Rolls transported with a grab or clamp attachment must be carried with the core in a vertical position.

(21) When traveling empty with a grab or clamp attachment, the jaws or blades of those attachments must remain within the running lines of the lift truck.

(22) When transporting two or more rolls with a roll grab attachment, the bottom roll will have at least sixty percent of the grab attachment on it.

(23) When transporting two or more rolls or bales with a grab or clamp attachment, there must be no rolls or bales unsecured if there is risk of part or all of the load shifting or falling.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-170 Requirements for crawler and truck cranes. (1) Boom length indicated. The length must be plainly marked on each boom section of a mobile crane having a sectioned boom.

(2) Radius or boom angle indicator. A radius or boom angle indicator must be installed where it is readily visible to the operator's normal operating position on all cranes having a movable working boom.

(3) Safety device for light fixtures. Any light fixtures attached to a crane boom or machinery house must have a safety strap or other device attached which will prevent the fixture from falling.

(4) Boom stops. Boom stops must be:

((*) (a) Installed to govern the upward travel of the boom to a safe limit((-)); and

((*) (b) Of adequate strength to prevent the boom from traveling past the vertical position.

(5) Controls marked. Crane operating controls must be marked or an explanation of the controls' functions must be posted in full view of the operator.

(6) Locking hydraulic outriggers. Hydraulic outriggers must be:

((*) (a) Equipped with a pilot operated check valve; or

((*) (b) Installed with a mechanical lock which will prevent outriggers from retracting in case of failure of the hydraulic system.

(7) Top of boom painted. The top six feet of the boom or jib must be painted bright yellow or other bright contrasting color if the boom is yellow.

(8) Warning devices. All cranes must be equipped with a suitable warning device such as a horn or whistle.

(9) Hook safety device. All hooks must be equipped with a safety device or other effective means must be used to prevent accidental unhooking of the load.

(10) Counterweight limited. The amount of crane counterweight must not exceed the maximum amount specified by the crane manufacturer.

(11) Use proper size wire rope for sheaves. The size and diameter of sheaves and wire rope must be compatible and follow the recommendations by the manufacturer, published by the Wire Rope Institute or other acceptable engineering practices.

(12) Loading or unloading gear. Unloading gear such as grapples, tongs, and buckets, must not be left suspended when not in use or whenever the machine is unattended.

(13) No one under load. Personnel must not position themselves under crane loads and such loads must not be carried over workers.

(14) Operating clearance from stationary objects. Where the area is accessible to workers:

((*) (a) A distance of 30 inches must be maintained between the outermost part of a revolving crane and any stationary object within the swing radius of the crane; or

((*) (b) The hazardous area must be temporarily guarded or barricaded.

(15) See WAC 296-24-960 when working around energized lines.

(16) Operators must avoid contacting overhead obstructions which may damage the boom or adversely affect stability. In instances where the operator may have difficulty in observing clearances, a signal person must be stationed where they can observe clearances and signal the operator.

(17) Safe travel across thoroughfares or railroad tracks.

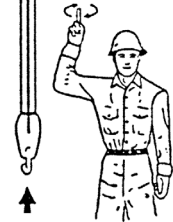
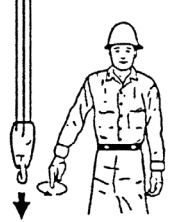

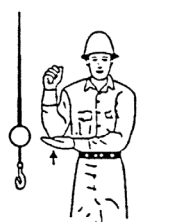
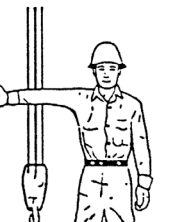
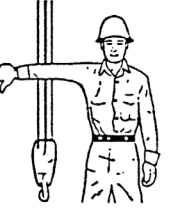
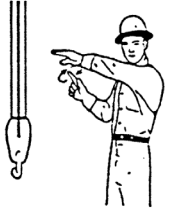
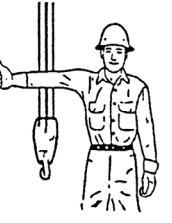
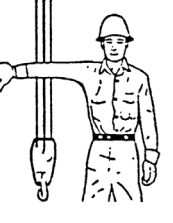
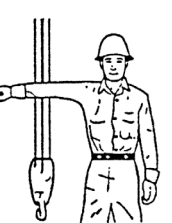
((*) (a) When moving cranes, shovels or similar types of equipment across thoroughfares or railroad tracks and the operator does not have a clear vision of approaching traffic, a ((~~flag person~~)) flag person must be used.

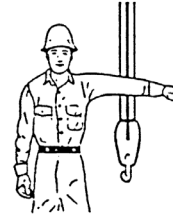
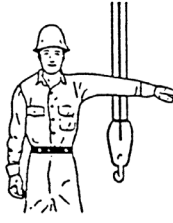
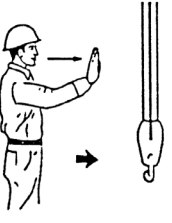
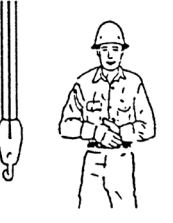

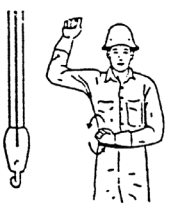
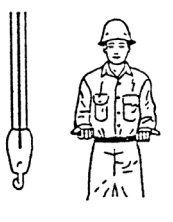



((*) (b) The flag person must be stationed where the equipment operator can be signaled and other traffic can be controlled.

(18) Only a designated member of the crew may give signals to the crane operator. Exception: Anyone may give an emergency stop signal.

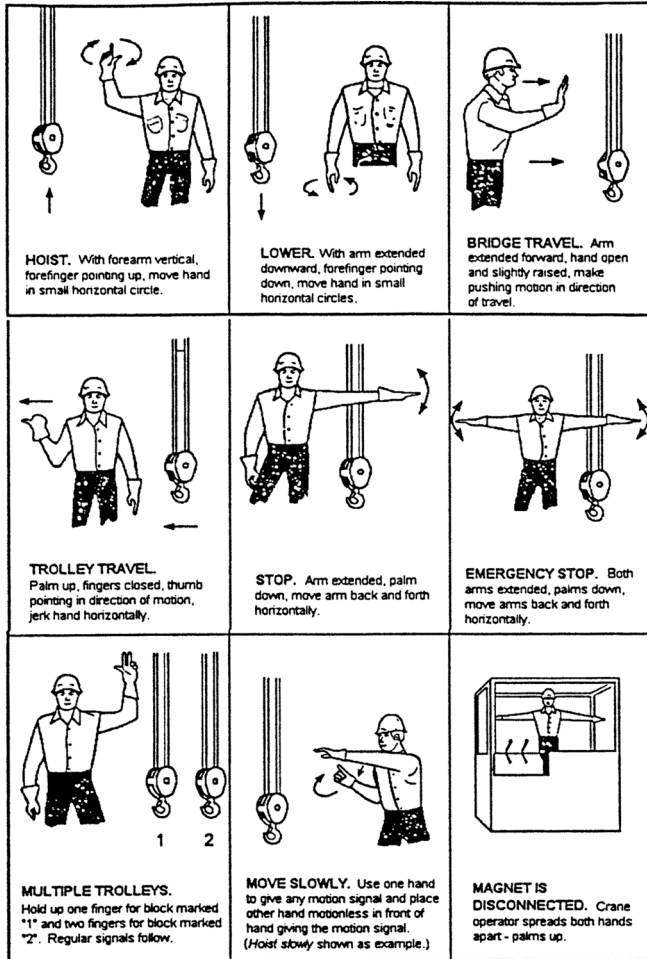
(19) Standard hand signals. When using visual signals, standard hand signals as illustrated below, must be used for directing crane operators.

CRAWLER, LOCOMOTIVE, AND TRUCK CRANES
STANDARD HAND SIGNALS FOR CRANES

 <p>HOIST. With forearm vertical, forefinger pointing up, move hand in small horizontal circle.</p>	 <p>LOWER. With arm extended downward, forefinger pointing down, move hand in small horizontal circles.</p>	 <p>USE MAIN HOIST. Tap fist on head; then use regular signals</p>	 <p>USE WHIPLINE. (Auxiliary Hoist). Tap elbow with one hand; then use regular signals.</p>	 <p>RAISE BOOM. Arm extended, fingers closed, thumb pointing upward.</p>
 <p>LOWER BOOM. Arm extended, fingers closed, thumb pointing downward.</p>	 <p>MOVE SLOWLY. Use one hand to give any motion signal and place other hand motionless in front of hand giving the motion signal. (Hoist slowly shown as example.)</p>	 <p>RAISE THE BOOM AND LOWER THE LOAD. With arm extended, thumb pointing up, flex fingers in and out as long as load movement is desired.</p>	 <p>LOWER THE BOOM AND RAISE THE LOAD. With arm extended, thumb pointing down, flex fingers in and out as long as load movement is desired.</p>	 <p>SWING. Arm extended, point with finger in direction of swing of boom.</p>

 <p>STOP. Arm extended, palm down, hold position rigidly.</p>	 <p>EMERGENCY STOP. Arm extended, palm down, move hand rapidly right and left.</p>	 <p>TRAVEL. Arm extended forward, hand open and slightly raised, make pushing motion in direction of travel.</p>	 <p>DOG EVERYTHING. Clasp hands in front of body.</p>	 <p>TRAVEL (Both Tracks). Use both fists in front of body, making a circular motion about each other, indicating direction of travel; forward or backward. (For crawler cranes only.)</p>
 <p>TRAVEL (One Track). Lock the track on side indicated by raised fist. Travel opposite track in direction indicated by circular motion of other fist, rotated vertically in front of body. (For crawler cranes only.)</p>	 <p>EXTEND BOOM (Telescoping Booms). Both fists in front of body with thumbs pointing outward.</p>	 <p>RETRACT BOOM (Telescoping Booms). Both fists in front of body with thumbs pointing toward each other.</p>	 <p>EXTEND BOOM (Telescoping Boom). One Hand Signal. One fist in front of chest with thumb tapping chest.</p>	 <p>RETRACT BOOM (Telescoping Boom). One Hand Signal. One fist in front of chest, thumb pointing outward and heel of fist tapping chest.</p>

STANDARD HAND SIGNALS FOR CONTROLLING OVERHEAD AND GANTRY CRANES



AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-180 Privately owned standard gauge railroad operations. (1) Blue flag or light for railroad operations.

(*) (a) A blue signal (blue flag or blue light for nonilluminated areas) must be displayed at one or both ends of an engine, car(s), or train, to indicate that workers are under or about the railway equipment.

(*) (b) When such warning devices are displayed, the equipment must not be coupled to or moved.

(*) (c) On a dead end spur, a blue signal may be displayed adjacent to the switch opening while cars are being loaded or unloaded.

(2) Blue signals and derails.

(*) (a) Work being carried on which subjects employees to the hazard of moving railroad equipment must be protected by blue signals and locked derails set a minimum of 50 feet from one or both ends of the worksite.

(*) (b) Where the spur track switch is less than 50 feet from the work location, the switch padlocked in the open

position will take the place of the derail and the blue signal must be placed at that point.

(3) Signals unobscured. Equipment which would obscure the blue signal must not be placed on the track.

(4) Signals displayed by each maintenance crew. Each maintenance crew must display and remove its own set of blue signals.

(5) Warning device.

(*) (a) A flashing warning light or other device must be installed near any opening which leads to a passageway crossing railroad tracks adjacent to the building.

(*) (b) Such light or device must be activated prior to any switching or movement of railroad equipment to warn workers of the dangerous condition in the area.

(6) Cars to be immobilized. Spotted cars must either have brakes set, wheels blocked, or must be coupled to other immobilized cars to prevent each car from rolling.

(7) Crawling under or between coupled cars prohibited. Workers must not crawl under or pass between coupled railroad cars to cross tracks.

(8) Warning at road crossing. An audible whistle, horn or bell must be sounded by the locomotive engineer to give adequate warning prior to switching across any road crossing.

(9) Flying switches. When switching railroad equipment in congested areas or across roadways or walkways "flying switches" must be prohibited.

(10) Car opening devices. All box car doors and associated mechanisms must be carefully inspected before workers attempt to open or close them. If the door is not free and cannot be opened safely by hand, equipment must be provided, where necessary, and a safe method must be used to open or close the door.

(11) Clearance from railroad tracks. Materials must not be stacked or piled closer than 8 1/2' from the center line of a standard gauge railroad track.

(12) Operating under limited visibility conditions.

Unless trains are operated in a manner to allow the operator to see a safe stopping distance in the direction of travel, a ~~((flagperson(s)))~~ **flag person(s)** must be positioned in such a manner to safely direct movement of the train.

~~((Flagperson))~~ (13) A **flag person** must:

(*) (a) Remain within sight of the operator~~((;))~~; or

(*) (b) Be equipped to maintain visual or voice communication with the operator as conditions dictate.

~~((13) A flagperson))~~ (14) A **flag person** must direct the movement of trains being moved across main roads or thoroughfares which do not have adequate traffic warning lights, bells or barricades.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-190 Loading and unloading materials from railway cars or trucks. (1) Safe access to top of railroad cars or trucks. Platforms with ladders or stairways must be installed or made available when needed so that workers may safely gain access to and perform work on the top of railroad cars or trucks when ladders are not installed on such equipment.

(2) Nets not to cover ladders. Rolled chip nets must not be positioned where they cover the ladders on railroad cars or trucks.

(3) Tipple type unloading device. When a tipple type unloading device is used for removing chips from cars, the cars must be properly secured in place and all employees must be in the clear before dumping operation is started.

(4) Handling pulp chips and hog fuel from trucks and trailers.

(a) Elevating platform-type or cable-lift type unloading devices must have adequate back bumper stops.

(b) Side rails or other positive means to prevent the trailer from falling must be used while unloading single trailer units.

(c) The truck or tractor must be secured when elevating platform lifts are used to elevate both the tractor and trailer or single unit trucks.

(d) All personnel must be clear of all hoisting or elevating mechanisms before dumping commences.

(e) No person is allowed in any truck while the truck is being elevated.

(5) Taking chip samples. A safe area and suitable device must be provided for the chip tester to use while taking chip samples.

(6) Deraill required for hazardous materials. To protect tank cars from being moved while loading or unloading hazardous materials by use of pipes or hoses, a deraill and blue flag must be set between the spotted tank cars and any moving railroad equipment.

(7) Moving cars by tugger or powered drums. When rail cars are moved by a tugger or powered drums with cables, a means should be provided or the area barricaded in such a manner that the moving cables do not endanger the workers.

(8) Handling pulpwood from flatcars and all other railroad cars.

(a) Railroad flatcars for the conveyance of pulpwood loaded parallel to the length of the car must be equipped with safety-stake pockets.

(b) Where pulpwood is loaded crosswise on a flatcar sufficient stakes of sizes not smaller than 4 by 4 inches must be used to prevent the load from shifting.

(c) Cutting stakes on log bundles. When it is necessary to cut stakes:

(*) (i) Those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side(7);

(*) (ii) Wire cutters equipped with long extension handles must be used(8); and

(*) (iii) No person is permitted along the dumping side of the car after the stakes have been cut.

(d) Cutting bands on log bundles. When cutting bands on bundled logs, workers must:

(*) (i) Position themselves in a safe location;

(*) (ii) Not use double bitted axes for cutting bands;

(*) (iii) Use caution to prevent being struck by ends of bands being cut; and(9)

*) (iv) If needed, wear personal protective equipment.

(e) Flatcars and all other cars must be:

(*) (i) Chocked during unloading; and(10)

*) (ii) Rail clamping chocks must be used when equipment is not provided with hand brakes.

(9) Handling pulpwood from trucks.

(a) Cutting of stakes and binder wires must be done in accordance with (8)(c) of this section.

(b) Binders or stakes must not be loosened or removed:

(*) (i) Until the logs are secured and held by equipment which will prevent them from rolling off the truck(11); or

(*) (ii) Barricades will prevent logs from striking the person removing the binders or stakes.

(c) Where binder chains and crane slings are used:

(*) (i) The crane slings must be attached and taut before the binder chains are released; and(12)

*) (ii) The hooker must see that the helper is clear before signaling for the movement of the load.

(d) The truck driver must:

(*) (i) Leave the truck cab and remain in the clear, preferably in a designated area(13); and

(*) (ii) Be in clear view of the unloading equipment operator while the unloader is approaching the loaded truck.

(*) (c) After a complete load is lifted as a unit and held stationary, the truck driver may enter the cab and drive forward from under the suspended load.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-200 Bridge and dock plates. Properly constructed bridge or dock plates must be furnished and used to bridge the area between a dock and truck or railroad car. The following requirements must be complied with for construction and use of such bridge or dock plates:

(1) Strength. The plate must be capable of supporting three times the maximum load to which it will be subjected.

(2) Stops. The plates must be provided with positive stops to prevent the plates from shifting or moving.

(3) Plates.

(*) (a) The plates must bear solidly on the dock and on the floor of the car or truck.

(*) (b) Plates with excessive teeter or rock must be repaired or replaced.

(4) Upturn or lip on plates. The sides of bridge or dock plates must have an upturn or lip of at least 4 inches covering the area between the edge of the loading dock and edge of car or truck floor whenever this distance exceeds 18 inches to prevent wheeled equipment from running off the sides.

(5) Bearing surface. Bridge or dock plates must have at least 6 inches bearing surface on the loading dock.

(6) Suitable fittings to be used. Bridge or dock plates intended to be moved by mechanized equipment must be designed for this purpose or appropriate fittings or attachments must be used.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-210 For conveyors, maintenance and inspection. See ((chapter 296-24 WAC, Part D)) WAC 296-806-420 Conveyors.

AMENDATORY SECTION (Amending WSR 04-15-105, filed 7/20/04, effective 11/1/04)

WAC 296-79-220 Deactivating and lockout requirements. (1) Control requirement. Whenever the unexpected startup of machinery, the energizing of electrical circuits, the flow of material in piping systems or the removal of guards would endanger workers, such exposure must be prevented by deactivating and locking out the controls as required by chapter 296-803 WAC, Lockout/tagout (control of hazardous energy).

EXCEPTION: In instances where any machine must be in motion for proper adjustment, for removal or replacement of materials from the machine, for machine clothing changes or for roping up, the following precautions must be observed((:)).

((*) (a) The machine must be operated at thread or jog speed;

((*) (b) Extension tools which minimize personnel exposure must be used where possible;

((*) (c) The operating controls must at all times be under the control of a qualified operator or craftsman;

((*) (d) All personnel must remain in view of the operator or other means of communication shall be established; and

((*) (e) All personnel must be beyond the reach of other machine section(s) or element(s) which offer potential exposure. In any instance where such potential exposure exists, such other section(s) or element(s) must be separately locked out.

(2) Group lockout or tagout devices. Procedures must meet the minimum requirements of chapter 296-803 WAC, Lockout/tagout (control of hazardous energy). ((The employer)) You must develop a specific written group lockout or tagout procedure and review it with the local plant labor/management safety committee before it can be utilized.

(3) Temporary or alternate power.

((*) (a) Whenever possible, temporary or alternate sources of power to the equipment being worked on must be avoided.

((*) (b) If the use of such power is necessary, all affected employees must be informed and the source of temporary or alternate power must be identified.

(4) Deactivating piping systems.

(a) Nonhazardous systems must be deactivated by at least locking out either the pump or a single valve.

(b) Lockout of the following hazardous material piping systems must isolate to the worksite and must provide protection against backflow where such potential exists:

((*) (i) Gaseous systems that are operated at more than 200 psig;

((*) (ii) Systems containing any liquid at more than 500 psig;

((*) (iii) Systems containing any material at more than 130°F;

((*) (iv) Any cryogenic system((:));

((*) (v) Systems containing material which is chemically hazardous as defined by NFPA 704 1996 Class 3 and 4; and

((*) (vi) Systems containing material classified as flammable or explosive as defined in NFPA Class I.

(c) Such systems must be deactivated by one of the following:

((*) (i) Locking out both the pump and one valve between the pump and the worksite;

((*) (ii) Locking out two valves between the hazard source and the worksite;

((*) (iii) Installing and locking out a blank flange between the hazard source and worksite. When a blank flange (blind) is used to separate off portions of hazardous material systems from a portion which is in operation, ((the employer)) you must develop and implement a procedure for installation and removal of the blank flange that will ensure all hazards have been eliminated;

((*) (iv) Line breaking between the hazard and the worksite;

((*) (v) On hazardous chemical systems where the methods already listed are not feasible, or by themselves create a hazard, single valve closure isolation may be used provided that potentially exposed employees are adequately protected by other means such as personal protective equipment((-));

((*) (vi) On all steam systems where the methods already listed are not feasible, single valve closure isolation may be used provided that the system is equipped with valves meeting all requirements of ANSI B16.5-1996 and ANSI B16.34-1996. Where single valve isolation is used, the steamline must also be equipped with a bleed valve downstream from the valve closure to prove isolation of the worksite.

Note: Bleeder valves are recommended behind all primary valve closures on hazardous material systems. Consideration should be given to the nature of the material in the system when installing bleeder valves. To assist in preventing plugging, bleeder valves should generally be installed in the top one-third of the pipe. Short exhaust pipes should be installed on bleeder valves to direct the flow of possible escapement away from the position where an employee would normally be when using the bleeder valve.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-230 Confined spaces. (1) Entry into confined spaces must be in accordance with chapter ((296-62 WAC, Part M)) 296-809 WAC.

(2) All equipment necessary to perform the work, including safety equipment, must be at the confined space and must be inspected or tested to assure that it functions properly.

(3) Protective equipment that will afford proper protection to the employee from any condition which may arise based on the hazard assessment, must be available either at the entrance or within the confined space.

(4) Electrical circuits leading into confined spaces where electrical conductive hazards exist must be protected by a ground fault interrupter or the voltage must not exceed 24 volts.

(5) Battery operated flashlights or lantern must be readily available for use by persons working in areas where escape would be difficult if normal lighting system should fail. Only explosion-proof type lights may be taken into any atmosphere which may contain an explosive concentration.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-250 Safety procedure for handling sulfur. (1) Sulfur burners. Sulfur-burner houses must:

- ((*) (a) Be safely and adequately ventilated((-); and
- ((*) (b) Have every precaution taken to guard against dust, explosion hazards and fires, in accordance with American National Standards Z9.2-1979 (R1991).

(2) Handling/storage of dry sulfur.

(a) Nonsparking tools and equipment must be used in handling dry sulfur.

(b) Sulfur storage bins must be kept free of sulfur dust accumulation, and buildings should be designed with explosion relief, in accordance with the latest revision of American National Standard Z9.2-1979 (R1991).

(c) Sulfur-melting equipment must not be located in the burner room.

(3) Handling/storage of liquid sulfur.

(a) Each facility utilizing liquid sulfur must:

- ((*) (i) Carefully examine its own handling system; and
- ((*) (ii) Formulate a written procedure for maintenance, receiving, storing and using this product.

(b) A minimum of two trained employees must be assigned when a tank car is first opened in preparation for venting and unloading.

(c) Approved respiratory protective equipment for H2S exposure, chemical splash goggles and gloves must be worn when performing this work.

(d) Spark producing or electric operated tools must not be used to unplug railroad car vents.

(e) Where venting can cause harmful exposure to other unprotected workers in the area:

((*) (i) A venting system must be installed which adequately contains any gas escapement from a tank car while venting((-);

((*) (ii) The vented gas must be carried to a safe location for discharge or circulated through a scrubbing system((-);

((*) (iii) The venting system must be connected before valves which would allow escapement are opened.

(f) Smoking, open burning or welding must be prohibited while unloading is in process or danger of gas escapement exists.

(4) Acid plant - Protection for employees.

(a) Where lime slaking takes place, employees must be provided with rubber boots, rubber gloves, protective aprons, and eye protection. A deluge shower and eyewash must be provided to flush the skin and eyes to counteract lime and acid burns.

(b) Hoops for acid storage tanks must be:

- (i) Made of round rods rather than flat strips((-); and
- (ii) Regularly inspected and safety maintained.

(c) Sulphur burner ignitors must have a means to automatically shut off the fuel to the ignitor when the flame has been extinguished.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-260 Pulpwood storage and handling.

(1) Piling of logs.

((*) (a) Logs must be piled or removed in an orderly manner((-);

((*) (b) The piles must be stable and individual logs properly placed to prevent them from rolling or falling((-);

((*) (c) The ends must not project into walkways, roadways or areas reserved for other purposes; and

((*) (d) Sufficient clearance must be maintained for safe travel of all vehicles and loads.

(2) Wire rope doglines used for towing or rafting must not be used when:

((*) (a) They acquire jiggers to the extent that they present a hazard to the employees handling them; or

~~((*) (b) They are weakened to the extent that they are hazardous.~~

(3) Boom sticks must be capable of safely supporting the weight imposed upon them.

(4) Stiff booms must be:

((*) (a) Made by fastening not less than two boom sticks together((-);

((*) (b) Not less than 36 inches in width measured from outside to outside of the outer logs((-); and

((*) (c) Fastened together with not less than 4 inch by 6 inch cross ties or cable lashing properly recessed into notches in the boom sticks and secured.

(5) Pike poles must be kept in good repair. Conductive pike poles must not be used when it is possible that they may come in contact with electrical conductors.

(6) Logs must not be lifted over employees and employees must stay clear of the hazardous area near where logs are being lifted or swung.

(7) Storing or sorting on water or any boom work other than boom boat operations, must require a minimum of two persons.

(8) All mobile equipment used to handle logs, blocks or cants must be provided with adequate overhead protection.

(9) Unloading lines must be so arranged that it is not necessary for the worker to attach them on the pond or dump side of the load.

(10) Unauthorized vehicles and unauthorized foot traffic must not be allowed in any active sorting, storing, loading, or unloading areas.

(11) Log unloaders must not be moved about the premises with loads raised higher than absolutely necessary.

(12) Jackets or vests of fluorescent or other high visibility material must be worn by persons working on dry land log storage.

(13) All log dumps must be periodically cleared of bark and other debris.

(14) Handles of wood hooks must be locked to the shank to prevent them from rotating.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-270 Pulpwood preparation. (1) Barker feeding devices must be designed in such a manner that the operator will not be required to hold or make any physical contact with any log or bolt during the barking operations.

(2) A dog or locking device in addition to the motor switch, clutch, belt shifter or other power disconnecting

device must be installed on all intermittent barking drums to prevent the drum from moving while it is being filled or emptied.

(3) Hydraulic barkers.

(a) The inlet and outlet areas of hydraulic barkers must be equipped with baffles or devices that will reasonably prevent material from flying out while the machine is in operation.

(b) The operator must be protected by at least five-ply laminated glass or material of equivalent strength.

(4) The high pressure hoses of hydraulic barkers must be secured in such a manner that the hose connection ends will be restrained if a hose connection fails.

(5) The feed operator's station must not be in direct line with the chipper blades. Suitable safeguards must be installed to prevent chips or chunks from being thrown out and striking the person feeding the machine.

(6) When the operator cannot readily observe the material being fed into the chipper, a mirror or other device must be installed in such a position that the ingoing material can be monitored.

(7) Metal bars or other nonchippable devices must not be used to clear jams or plug-up at the feed entrance to a chipper or hog while the machine is running.

(8) Water wheel speed governor.

(*) (a) Water wheels, when directly connected to marker disks or grinders, must be provided with speed governors, if operated with gate wide open((-)); and

(*) (b) Water wheels directly connected to pulp grinders must be provided with speed governors limiting the peripheral speed of the grinder to that recommended by the manufacturer.

(9) Knot cleaners of the woodpecker type.

(*) (a) The operators of knot cleaners of the woodpecker type must wear eye protection equipment((-); and

(*) (b) Such knot cleaners should be enclosed to protect passersby from flying chips.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-27003 Log hauls, slips, and carriages.

(1) Controls must be:

(*) (a) Arranged to operate from a position where the operator will at all times be in the clear of logs, machinery, lines, and rigging((-); and

(*) (b) Marked to indicate their function.

(2) Log decks must be provided with effective means to prevent logs from accidentally rolling down the deck and onto the carriage or its runway.

(3) When needed for protection of personnel, an automatic stop or interlocking device must be installed on log hauls or slips. These devices are not a substitute for lockout.

(4) A barricade or other positive stop of adequate strength must be provided to protect the sawyer from rolling logs.

(5) Canting gear or other equipment must not hang over the log deck in such a manner as to endanger employees.

(6) The sawyer (~~(shall)~~) must be primarily responsible for the safety of the carriage crew and offbearers and must

exercise due care in the operation of the carriage and log turning devices.

(7) Feed works and log turning control levers must be so arranged that they may be secured when not in use and must be adequately guarded against accidental activation.

(8) A control device must be provided so that the sawyer may stop the head rig section of the mill without leaving the stand.

(9) An effective method of disengaging the head rig saws from the power unit must be installed on all head rigs where the power unit is not directly controlled by the sawyer.

(10) The sawyer must be safeguarded either by location or by use of substantial screens or approved safety glass.

(11) Carriages upon which employees are required to work must be solidly decked over and the employees properly protected.

(12) The feed control lever of friction or belt-driven carriage feed works must be designed to operate away from the saws or carriage track.

(13) A substantial stop or bumper must be installed at each end of the carriage run.

(14) Substantial sweeps must be installed in front of each carriage wheel. Such sweeps must extend to within 1/4 inch of the rails.

(15) Where power-operated log turners are used, carriage knees must be provided with goosenecks or other substantial means of protecting the carriage crew.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-27005 Band saws. (1) Band saws must be given a thorough daily inspection and any deficiency reported and corrected.

(2) Any band saw found to have developed a crack greater than one-tenth the width of the saw must (~~(be)~~):

(*) (a) Be removed from service until the width of the saw is reduced to eliminate the crack((-);

(*) (b) Have the cracked section (~~((is))~~) removed((-); or

(*) (c) Have the development of the crack (~~((is))~~) arrested by welding.

(3) Band saws must not be continued in use on the head rig for which they have been designed after they have been reduced 40% in width.

(4) Band saw guides must be maintained in good condition and proper alignment at all times.

(5) All head band saw wheels must have a minimum rim thickness of 5/8 inches, except for a distance not to exceed one inch from the front edge of the wheel.

(6) Band saws must not be run at a speed in excess of the manufacturer's recommendations.

(7) A band wheel that has developed a crack in the rim must be immediately removed from service. If a crack has developed in a spoke, the wheel must be removed from service until properly repaired.

(8) All band wheel guards must be constructed of not lighter than ten U.S. Gauge metal, or not less than two-inch wood material or equivalent, attached to substantial frames. Necessary ventilating ports, not larger than two by four

inches, and suitable doors or gates for the lubrication and repair of the saw will be permitted.

(9) Every band mill must be equipped with a saw catcher, rest or guard of substantial construction.

(10) Each gang ripper of band or straight saw type must have the cutting edges of the saw guarded by a hood or screen substantially secured to the framework of the machine.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-27015 Construction and use of pulp-wood splitters. (1) The activating control unit for a splitter must be of the clutch or positive acting type and must be so arranged and designed that it will not repeat without additional activation before starting a second cycle.

(2) The base or rest upon which the wood ~~((seats))~~ sits while being split must have a corrugated surface or other means ~~((shall))~~ must be provided which will prevent the wood block or log from shifting as the pressure is applied.

(3) The splitter base or rest and wood to be split must be free of ice, snow, and chips.

(4) The splitter machine operator must have a clear, unobstructed view of the work area adjacent to the splitting operation when other workers must be in such area while blocks are being split.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-280 Chip and hog fuel storage. (1) ~~((Entry into bins and silos-~~

~~((a)))~~ Entry into chip bins and silos~~((;))~~ must be in compliance with the requirements of confined space entry, WAC 296-79-230, of this chapter.

~~((b)))~~ (a) Chip and sawdust bins. Steam or compressed air lances, or other safe methods, must be used for breaking bridges and hangups.

~~((c)))~~ (b) Employees must be prohibited from working under or on top overhangs or bridges. Extreme care must be taken to prevent chips or hog fuel from creating an overhang or bridging.

~~((d)))~~ (c) Hog fuel bins must be provided with an approved railed platform or walkways near the top or other approved means must be provided for use of employees engaged in dislodging hog fuel.

(2) Exterior chip and hog fuel storage.

(a) When mobile equipment is used on top of hog fuel or chip piles, a roll-over protection system must be installed on the equipment.

(b) If the cab is of the enclosed type, windshield wipers must be installed.

(c) If used during hours of darkness the area must be adequately illuminated or the equipment must have adequate lights to provide the operator sufficient illumination to safely perform the work.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-29003 Warning of digester being blown. (1) Procedures must be developed to ensure that digester operators are aware of personnel entering hazardous areas.

~~((a)))~~ (a) Audible warning signals and red warning lights must be installed in areas which may be hazardous to personnel while digesters are being blown.

~~((b)))~~ (b) Such devices must be activated prior to blowing a digester and the warning lights must remain lighted as long as the hazard exists.

(2) Blowing digester. Blow-off valves must be opened slowly.

(3) After the digester has started to be blown, the blow-off valve must be left open, and the hand plate must not be removed until the person responsible signals the blow-pit person that the blow is completed. Whenever it becomes necessary to remove the hand plate to clear stock, operators must wear eye protection equipment and protective clothing to guard against burns from hot stock.

(4) Blow-pit hoops must be maintained in a safe condition.

(5) Where the processes of the sulfate and soda operations are similar to those of the sulfite processes, the standard of WAC 296-79-29001 and 296-79-29003, of this chapter, applies to both processes.

(6) Means must be provided so the digester cook can signal the employee in the chip bin before starting to load the digester.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-29013 Pulping device procedures. Each company must develop a safe procedure which ~~((shall))~~ must be followed for feeding, clearing jams, or removing foreign objects from any pulping device. These procedures must comply with applicable provisions of this standard.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-29015 Off machine repulping devices. (1) When fed manually from the floor above, conveniently located emergency stop devices must be provided at the top level.

(2) When fed from floor above:

~~((a)))~~ (a) The chute opening, if less than standard guardrail height from the feed platform or floor, must be provided with a complete guardrail or other enclosure to standard guardrail height~~((-))~~; and

~~((b)))~~ (b) Openings for manual feeding must be sufficient only for entry of stock and must be provided with at least two permanently secured crossrails, in accordance with, the general safety and health standards, WAC 296-24-75003.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-29021 Shredders and blowers. (1) On manually fed broke shredders, the feed table must be of a height and distance from the knives as to prevent the operator from reaching or falling into the knives or the operator must be safeguarded by other acceptable means.

(2) A smooth-pivoted idler roll resting on the stock or feed table must be provided in front of feed rolls except when arrangements prevent the operator from standing closer than 36 inches to any part of the feed rolls.

(3) Any manually fed cutter, shredder, or duster must be provided with an idler roll as specified in (2) of this section or the operator ~~((shall))~~ **must** use special hand-feeding tools.

(4) Blowers used for transporting materials must be provided with feed hoppers having outer edges located not less than 48 inches from the fan.

(5) The blower discharge outlets and work areas must be arranged to prevent material from falling on workers.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-29027 Guillotine type roll splitters. (1) The engaging control for activating the guillotine blade must be a "deadman type" switch that demands continuous operator activation and must be:

~~((★))~~ (a) A positive two-hand operating control~~((;))~~;

~~((★))~~ (b) Located far enough from the cutting location so that the operator cannot reach the blade during the cutting process.

(2) Personnel must not position any part of the body under the blade.

(3) Rolls must be in the horizontal position while being split.

(4) Rolls must be centered directly below the blade.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-29029 Broke hole. (1) An alarm bell or flashing light must be actuated or other suitable warning must be given before dropping material through a broke hole when persons working below may be endangered.

(2) Broke holes must be guarded to the fullest extent possible consistent with operational necessities. The degree of guarding provided by standard height and strength guardrails will be considered as a minimum acceptable level of protection.

(3) When repulping devices or feed conveyor systems for repulping devices are located beneath broke holes, special precautions must be used~~((;))~~;

~~((★))~~ (a) The broke hole opening must be reduced to the smallest practical dimension~~((;))~~;

~~((★))~~ (b) If the broke hole opening is large enough to permit a worker to fall through and is not guarded at least to the equivalent degree of protection provided by standard guardrails, any employee pushing broke down the broke hole must wear a safety belt or harness attached to a lanyard~~((;))~~; and

~~((★))~~ (c) The lanyard must be fastened in such a manner that it is impossible for the person to fall into the repulping device.

(4) Guarding to the equivalent degree of protection provided by standard guardrails and meeting the requirements of subsections (2) and (3), may be achieved by the use of guard bars separated no more than 15-1/2 inches in a vertical plane and 12 inches in a horizontal plane, or any other location within that segment.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-29031 Industrial kiln guns and ammunition. ~~((The employer))~~ **You** must ensure that there are written instructions, including safety procedures, for storing and operating industrial kiln guns and ammunition. All personnel working with this equipment must be instructed in these procedures and must follow them.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-29033 Chlorine dioxide system. See chapter 296-62 WAC, Part P and chapter 296-67 WAC, process safety management.

(1) Sodium chlorate.

(a) Personnel handling and working with sodium chlorate must be thoroughly instructed in precautions to be used in handling and special work habits.

(b) Facilities for storage and handling of sodium chlorate must be constructed so as to eliminate possible contact of dry or evaporated sodium chlorate with wood or other material which could cause a fire or explosion.

(c) Sodium chlorate facilities should be constructed with a minimum of packing glands, stuffing boxes, etc.

(2) Chlorine dioxide.

Chlorine dioxide generating and storage facilities must be placed in areas which are adequately ventilated and are easily kept clean of wood, paper, pulp, etc., to avoid contamination which might cause a reaction. This can be accomplished by placing these facilities in a separate room or in a designated outside space.

(3) General.

(a) Facilities handling sodium chlorate and chlorine dioxide must be declared "no smoking" areas and must have signs posted accordingly.

(b) Management ~~((shall))~~ **must** be responsible for developing written instructions including safety procedures for operating and maintaining the generator and associated equipment. All personnel working on this equipment must be thoroughly trained in these procedures and must follow them. A periodic review of these procedures is recommended.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-79-300 Machine room equipment and procedures. (1) Pulp and paper machines must be equipped with emergency stopping control(s) which can be actuated quickly from all normal operating stations. If useful for the safety of

personnel, the stopping control(s) must be interlocked with adequate retarding or braking action to stop the machine as quickly as is practical. The devices must consist of push buttons for electric motive power (or electrically operated engine stops), pull cords connected directly to the prime mover, control clutches, or other devices.

(2) Steps and footwalks along the fourdrinier/forming and press section must have nonslip surfacing and be complete with standard handrails, when practical.

(3) If a machine must be lubricated while in operation an automatic lubricating device must be provided or oil cups and grease fittings must be provided which can be serviced safely without exposing the worker to any hazards.

(4) All levers carrying weights must be so constructed that weights will not slip or fall off.

(5) Guarding inrunning nip points. ~~((a))~~ The drums on pulp and paper machine winders ~~(-~~

~~(i) These drums~~) must be provided with suitable guards to prevent a person from being caught between the roll and the front drum on the winder when the pinch point is on the operator's side.

~~((ii))~~ (a) Such guards must be interlocked with the drive mechanism to prevent the winder from running while the guard is not in place. Except that the winder may be wired to allow it to run at thread or jog speed only for adjustment and start up purposes while the guard is not in position.

~~((iii))~~ (b) A zero speed switch or locking device must be installed to prevent the guard from being removed while the roll is turning above thread or jog speed.

~~((b))~~ (c) Rewinders.

When rewinding large rolls and the nip point is adjacent to the normal work area ~~((:))~~:

~~((a))~~ (i) The nip point must be protected by a barrier guard ~~((and))~~:

~~((a))~~ (ii) Such guard must be interlocked with the drive mechanism to prevent operating the machine above thread or jog speed without the guard in place; and

~~((a))~~ (iii) A zero speed switch must be installed to prevent the guard from being raised while the roll is turning.

~~((e))~~ (d) Inrunning nips where paper is not being fed into a calender must be guarded.

(6) An audible alarm must be sounded prior to starting up any section of a pulp or paper machine. Sufficient time must be allowed between activation of the alarm system and start up of the equipment to allow any persons to clear the hazardous area.

(7) When starting up a dryer section, steam to heat the drums must be introduced slowly and while the drums are revolving.

(8) A safe method must be used when starting paper into the nip of drum type reels or calender stacks. This may be accomplished by the use of feeder belts, carrier ropes, air carriage or other device or instrument.

~~((a))~~ (a) A rope carrying system should be used wherever possible at points of transfer ~~((:))~~; or

~~((a))~~ (b) Sheaves should be spaced so that they do not create a nip point with each other and the sheave and its support should be capable of withstanding the speed and breaking strength of the rope for which they are intended.

(9) Employees must not feed a stack with any hand held device which is capable of going through the nip.

(10) Employees must not attempt to remove a broken carrier rope from a dryer while the section is running at operating speed.

(11) Employees must stop the dryer to remove a wrap except in cases where it can be safely removed by using air or other safe means.

(12) To remove deposits from rolls, a specially designed scraper or tool ~~((shall))~~ must be used. Scraping of rolls must be performed on the outgoing nip side.

(13) Doctor blades.

(a) Cleaning. Employees must not place their hands between the sharp edge of an unloaded doctor blade and the roll while cleaning the doctor blade.

(b) Doctor blades must have the sharp edges properly guarded during transportation and storage.

(c) Special protective gloves must be provided and must be worn by employees when filing or handling sharp edged doctor blades.

(14) Handling reels.

(a) Reels must stop rotating before being lifted away from reel frame.

(b) Crane hooks must not be used to stop a turning reel.

~~((b))~~ (c) Exposed rotating reel shafts with square block ends must be guarded.

~~((e))~~ (d) The crane operator must ascertain that reels are properly seated at winder stand or at reel arms before they disengage the hooks.

~~((e))~~ (e) On stored reels, a clearance of at least 8 inches between the reels of paper must be maintained.

(15) All winder shafts must be equipped with a winder collar guide. The winder must have a guide rail to align the shaft for easy entrance into the opened rewind shaft bearing housing. If winder shafts are too heavy for manual handling, mechanical equipment must be used.

(16) Shaftless winders must be provided with a barrier guard of sufficient strength and size to confine the rolls in the event they become dislodged while running.

(17) All calender stacks and spreader bars must be grounded according to chapter 296-24 WAC, Part L, and WAC 296-800-280 as protection against shock induced by static electricity.

(18) Nonskid type surface required.

(a) All exposed sole plates between dryers, calenders, reels, and rewinders must have a nonskid type surface.

(b) A nonskid type surface must be provided in the work areas around the winders or rewinders.

(19) If a powered roll ejector is used it should be interlocked to prevent accidental actuation until the receiving platform or roll lowering table is in position to receive the roll.

(20) Employees must keep clear of hazardous areas around the lowerator, especially all lowerator openings in a floor and where roll is being discharged.

(21) Provision must be made to hold the rider roll when in a raised position unless counterbalancing eliminates the hazard.

(22) Drain openings in pits. Flush floor drain openings larger than 3 inches in diameter in the bottom of pits must be

guarded to prevent workers from stepping through, while working in this area.

(23) Employees must not enter into or climb on any paper machine roll that is subject to free turning unless a positive locking device has been installed to prevent the roll from turning.

(24) ~~((The employer))~~ You must ensure sufficient inspection and nondestructive examination of reel spool and calender roll journals. The type and frequency of testing must be adequate to detect indications of failure. Any reel spool or calender roll journal found to have an indication of failure must be removed from service. Nondestructive examination personnel must be qualified in accordance with SNT-TC 1A.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-31003 Corrugator. (1) Every recessed floor conveyor system must be identified by standard color coding, and so designed and installed to minimize tripping hazards.

(2) All areas subject to wet processes must be provided with drains.

(*) (a) Drain trenches must be provided with gratings flush with the adjoining floor.

(*) (b) Use of curbing in work areas should be avoided in new installations. If the use of curbing cannot be avoided, the design must be such that the curbs do not constitute a tripping hazard in normal working areas. When curbing exists and constitutes a hazard, it must be color coded.

(3) Rails of rail mounted devices such as roll stands must be flush with the adjacent floor, and so installed to provide a minimum of 18 inches clearance between the equipment and walls or other fixed objects.

(4) All corrugating and pressure rolls must be equipped with appropriately designed and installed threading guides so as to prevent contact with the infeed nip of the various rolls by the operator.

(5) A minimum of 4 inches clearance or effective nip guarding must be maintained between heated drums, idler rolls, and cross shafting on all preheaters and preconditioners.

(6) Lower elevating conveyor belt rolls on the single facer bridge must have a minimum nip clearance of 4 inches or effective nip guarding.

(7) Web shears at the discharge end of the double facer must be equipped with barrier type guards.

(8) Slitter stations not in use must be disconnected from the power source by positive means.

(9) Elevating type conveyors must have the floor area color-coded.

AMENDATORY SECTION (Amending WSR 99-16-083, filed 8/3/99, effective 11/3/99)

WAC 296-79-320 Sulfite recovery furnace area requirements. (1) ~~((The employer))~~ You must have a program to train all personnel associated with recovery boiler operations in safe operating procedures and emergency shut-down procedures.

(2) An audible warning system must be installed in kraft and soda base sulfite recovery furnace areas and must be actuated whenever an emergency exists.

(3) All personnel who enter the recovery furnace area must understand the emergency evacuation procedure.

(4) Warning system maintenance. Emergency warning systems in the recovery furnace areas must be kept in proper working condition and must be tested or checked weekly.

(5) Personnel must stand to the side while opening a furnace or boiler firebox door.

NEW SECTION

WAC 296-99-005 What definitions apply to this chapter? Choked leg. Excess material buildup that stops the movement of grain and of the bucket elevator. A bucket elevator is not considered choked if it moves and the boot and discharge are clear.

Flat storage structure. A grain storage structure that:

(a) Cannot empty by gravity alone;

(b) Can be entered through an opening at ground level; and

(c) Must be entered to remove leftover grain.

Fugitive grain dust. Combustible grain dust particles, accumulated inside storage structures, that are small enough to pass through a U.S. standard 40 mesh sieve (425 microns or less).

Grain. Raw and processed grain of cereal grass seeds and grain products handled in facilities within the scope of WAC 296-99-015(1).

Grain elevator. A facility in which bulk raw grains are stored by means of elevating machinery for later shipment.

Hot work. Work that involves electric or gas welding, cutting, brazing or similar heat-producing tasks that could be a source of ignition.

Inside bucket elevator. A bucket elevator with the boot and more than twenty percent of the total leg height (above grade or ground level) inside a grain elevator structure. Bucket elevators used inside of rail or truck dump sheds are not considered inside bucket elevators.

Jogging. To start and stop drive motors repeatedly over short intervals.

Lagging. A covering on drive pulleys used to increase the driving friction between the pulley and the belt.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

WAC 296-99-010 What safety hazards does this chapter require the employer to control? This chapter directs ~~((the employer))~~ you to control dust fires, explosions and other safety hazards in grain handling facilities including the waterfront dock areas at marine terminals (chapter 296-56 WAC will not apply).

All provisions from chapters 296-24, 296-62, and 296-800 WAC also apply. If rules in either of these chapters conflict with rules in chapter 296-99 WAC, chapter 296-99 WAC will prevail.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-015 What grain-handling operations does this chapter cover? (1) WAC 296-99-010 through 296-99-070 apply to:

- ((★)) (a) Dry grinding operations of soycake;
- ((★)) (b) Dry corn mills;
- ((★)) (c) Dust pelletizing plants;
- ((★)) (d) Feed mills;
- ((★)) (e) Flour mills;
- ((★)) (f) Flat storage structures;
- ((★)) (g) Grain elevators;
- ((★)) (h) Rice mills; and
- ((★)) (i) Soybean flaking operations.

(2) WAC 296-99-075, 296-99-080, and 296-99-085 apply only to grain elevators.

(3) Chapter 296-99 WAC does not apply to alfalfa storage or processing operations if they do not use grain products.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-025 What are the requirements for an emergency action plan? ((The employer)) You must develop and implement an emergency action plan that meets the requirements of WAC 296-24-567.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-99-030 What training must an employer provide for employees? (1) ((The employer)) You must train employees:

- (a) Annually; and
 - (b) Whenever a new job assignment exposes an employee to a new hazard.
- (2) ((The employer)) You must ensure that employees are trained in the following:

(a) General safety precautions against fires and explosions, including how to recognize and prevent the hazards of excess dust accumulation and ignition sources.

(b) Specific procedures and safety practices for job tasks including, but not limited to:

- ((★)) (i) Cleaning grinding equipment;
- ((★)) (ii) Clearing choked legs;
- ((★)) (iii) Housekeeping;
- ((★)) (iv) Hot work; and
- ((★)) (v) Preventive maintenance.

(3) ((The employer)) You must provide additional training for employees who are assigned special tasks, including but not limited to:

(a) Procedures for grain storage entry according to chapter 296-809 WAC, Confined spaces, and how to:

((★)) (i) Control hazardous energy (lockout/tagout) according to chapter 296-803 WAC, Lockout/tagout (control of hazardous energy);

((★)) (ii) Avoid getting buried by moving grain (engulfment);

((★)) (iii) Avoid falling from heights; and

((★)) (iv) Prevent mechanical hazards.

(b) How to handle flammable or toxic substances.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-035 When must an employer issue a hot work permit? (1) Before allowing an employee to start any hot work, ((the employer)) you must:

(a) Issue to the employee a permit that states that all safety precautions required by WAC 296-24-695 are in place; and

(b) Keep the permit on file until the hot work is complete.

(2) ((The employer)) You may allow an employee to perform hot work without a permit if:

(a) ((The employer's)) Your representative personally monitors the hot work to prevent employee exposure to injury from either fire or explosion during the entire operation; or

(b) The hot work is done in welding shops authorized by ((the employer)) you; or

(c) The hot work is done in hot work areas authorized by the employer which are located outside of the grain handling structure.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-99-040 What practices must an employer follow for entry into grain storage structures? This section applies to employee entry into all grain storage structures.

(1) ((The employer)) You must ensure that the practice of walking down grain is prohibited. "Walking down grain" means an employee walks on grain to make it flow within or out from a grain storage structure, or an employee is on moving grain.

(2) ((The employer)) You must ensure that during the entry and occupation of a storage structure the employee uses:

((★)) (a) A body harness with a lifeline; or

((★)) (b) A boatswain's chair that meets the requirements of chapter 296-874 WAC, Scaffolds:

((★)) (i) The employee is exposed to a fall hazard such as when entering from the top or above the level of the stored grain; or

((★)) (ii) The employee is exposed to an engulfment hazard such as when entering at the level of the stored grain, or while walking or standing on the grain. The lifeline must be rigged so that its position and length will prevent the employee from sinking below waist level.

(3) ((The employer)) You must ensure that during the occupation of storage structures, including walking or standing on grain, employees are protected from hazards related to:

((★)) (a) Mechanical;

((★)) (b) Electrical;

((★)) (c) Hydraulic; and

((★)) (d) Pneumatic equipment.

By using safeguards, lockout-tagout, or other equally effective means. All provisions for the control of hazardous

energy (lockout/tagout) from chapter 296-803 WAC apply to this chapter.

(4) ~~((The employer))~~ You must ensure that employees are prohibited from entering any storage structure where a build-up of grain overhead (bridging) or on the sides could fall and bury them.

(5) ~~((The employer))~~ You must ensure, as minimum precautions, that employee entry and occupation of all grain storage structures including flat storage structures is done according to all applicable requirements of chapter 296-809 WAC, Confined spaces, when the storage structure:

((*) (a) Has limited or restricted means of entry and exit; and

((*) (b) Is not designed for continuous employee occupancy.

(6) ~~((The employer))~~ You may allow an employee to perform confined space entry work in grain storage structures without a permit if the employer's representative personally monitors the work to prevent employee exposure to illness or injury from atmospheric hazards during the entire operation.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-045 What information must an employer provide to contractors? (1) ~~((The employer))~~ You must inform contractors working at the grain handling facility of:

(a) General safety rules; and

(b) Specific fire and explosion hazards related to the contractor's work and work area.

(2) ~~((The employer))~~ You must explain the emergency action plan to each contractor.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-050 What elements must an employer include in the housekeeping program? (1) ~~((The employer))~~ You must develop and enforce a written housekeeping program that:

(a) Establishes frequency and methods for reducing and cleaning up hazardous accumulations of fugitive grain dust;

(b) Identifies priority areas for clean up of hazardous accumulations of fugitive grain dust, including floor areas:

((*) (i) Within thirty-five feet (10.7 m) of inside bucket elevators;

((*) (ii) Of enclosed grinding equipment; and

((*) (iii) Of enclosed grain dryers located inside the facility~~((; and))~~.

(c) Requires that fugitive grain dust is cleaned up immediately whenever accumulations exceed one-eighth inch (.32 cm) at priority housekeeping areas, or provide protection against fire and explosion that is equal to the required clean up.

(2) ~~((The employer))~~ You must prohibit the use of compressed air to blow dust from ledges, walls, and other areas unless all machinery that provides an ignition source in the area is shut down, and all other known potential ignition sources in the area are removed or controlled.

(3) ~~((The employer))~~ You must also ensure that the housekeeping program addresses procedures for removing grain and product spills from work areas. Spills are not considered fugitive grain dust accumulations.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-055 What is the maximum allowable grate opening size? ~~((The employer))~~ You must ensure that receiving-pit feed openings, such as truck or railcar receiving-pits, are covered by grates with maximum openings of two and one-half inches (6.35 cm).

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-060 How must filter collectors be installed? (1) ~~((The employer))~~ You must ensure that, on a pneumatic dust collection system, each fabric dust filter collector has a monitoring device that will show a pressure drop across the surface of its filter.

(2) ~~((The employer))~~ You must ensure that each filter collector installed after March 30, 1988, is:

(a) Located outside the facility; or

(b) When located inside the facility, protected by an explosion suppression system; or

(c) Isolated by a structure with at least a one hour fire-resistance rating:

((*) (i) Next to an exterior wall;

((*) (ii) Vented to the outside; and

((*) (iii) The vent and ductwork must resist rupture from intense heat.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

WAC 296-99-065 What preventive maintenance program must an employer implement? (1) ~~((The employer))~~ You must implement a written program that covers the requirements of chapter 296-803 WAC, Lockout/tagout (control of hazardous energy).

(2) ~~((The employer))~~ You must implement preventive maintenance procedures that include the following:

(a) Conducting regularly scheduled inspections for specified machinery.

(b) Preparing written inspection reports kept on file that include:

((*) (i) The date of each inspection;

((*) (ii) The name of the inspector; and

((*) (iii) The serial number, or other identification of the machinery as described next in (c) of this subsection.

(c) Conducting regularly scheduled inspections and completing immediate repairs of the mechanical equipment and safety controls of the following machinery:

((*) (i) Grain dryers;

((*) (ii) Grain stream processing equipment;

((*) (iii) Dust collection systems including their filter collectors that malfunction or operate below designed efficiency;

((*) (iv) Overheated bearings; and

((*) (v) Slipping or misaligned belt drives for inside bucket elevators.

When immediate repairs are not feasible, then the affected machine must be taken out of service.

(d) Performing lubrication and other maintenance according to manufacturers' recommendations or more often when needed, such as when operating records indicate that a more stringent schedule is necessary.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-070 How must grain stream processing equipment be equipped? ((The employer)) You must ensure that the following grain stream processing equipment has an effective means of removing ferrous material from the incoming grain:

- ((*) (1) Hammer mills;
- ((*) (2) Grinders; and
- ((*) (3) Pulverizers.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-075 How many means of emergency escape must an employer provide? ((The employer)) You must provide the following number of emergency escape means:

Structure	Number of escape means
Galleries (bin decks)	Two
Tunnels of grain elevators constructed after November 14, 1988	Two
Tunnels of grain elevators constructed on or before November 14, 1988	One

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-080 How must continuous-flow bulk raw grain dryers be equipped and installed? (1) ((The employer)) You must ensure that all direct-heat grain dryers have automatic controls that:

- (a) Shut off the fuel supply in case of power, flame, or ventilation airflow shutoff; and
 - (b) Stop the grain flow into the dryer if the dryer exhaust gets too hot.
- (2) ((The employer)) You must ensure that each direct-heat grain dryer installed after March 30, 1988, is:
- (a) Located outside the grain elevator; or
 - (b) When located inside the grain elevator, protected by a fire or explosion suppression system; or
 - (c) Isolated by a structure with at least a one hour fire-resistance rating.

AMENDATORY SECTION (Amending WSR 97-22-065, filed 11/3/97, effective 1/1/98)

WAC 296-99-085 What special requirements apply to inside bucket elevators? (1) ((The employer)) You must prohibit jogging of a bucket elevator to free a choked leg.

~~("Jogging" means to start and stop drive motors repeatedly over short intervals.~~

(2) ~~The employer)~~ (2) You must ensure that all belts and lagging purchased after March 30, 1988, are conductive and have a maximum surface electrical resistance of 300 meg-ohms.

(3) ~~The employer)~~ You must ensure that all bucket elevators have safe access to the head pulley section for inspection of the head pulley, lagging, belt, and discharge throat. The boot section must also have safe access for its clean-out and inspection of the pulley and belt.

(4) ~~The employer)~~ You must:

- (a) Mount bearings externally to the leg casing; or
- (b) Have vibration and temperature monitoring; or
- (c) Have other means to monitor the condition of bearings mounted inside or partially inside the leg casing.

(5) ~~The employer)~~ You must ensure that bucket elevators have a motion detection device that will stop the elevator if belt speed is reduced to less than eighty percent of normal operating speed.

(6) ~~The employer)~~ You must:

- (a) Ensure that bucket elevators have a belt alignment monitoring device that will initiate an alarm to employees when the belt is not tracking properly; or
- (b) Use a system to keep the belt tracking properly.

(7) Subsections (5) and (6) of this section do not apply to grain elevators with a permanent storage capacity of less than one million bushels, if daily visual inspection is made of bucket movement and belt tracking.

(8) Subsections (4), (5), and (6) of this section do not apply to the following:

(a) Bucket elevators with an operational fire and explosion suppression system capable of protecting at least the head and boot section of the bucket elevator; or

(b) Bucket elevators with pneumatic or other dust control systems or methods that keep the dust concentration inside the bucket elevator at least twenty-five percent below the lower explosive limit at all times during operations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-99-020 What definitions apply to this chapter?

AMENDATORY SECTION (Amending WSR 08-20-123, filed 10/1/08, effective 11/1/08)

WAC 296-115-015 Definitions. ((+)) ~~Approved~~ ~~(means)~~. Approved by the assistant director or an authorized representative. However, if a provision of this chapter requires approval by an agency or organization other than the department, such as nationally recognized testing laborato-

ries or the United States Coast Guard, then approval by the specified authority will be accepted.

~~((2))~~ **Assistant director** ~~((means))~~. The assistant director of the division of occupational safety and health (DOSH) within the department of labor and industries.

~~((3))~~ **Authorized person** ~~((means))~~. A person approved or assigned by the employer to perform a specific type of duty or duties or be at a specific location or locations at the workplace.

~~((4))~~ **Bare boat charter** ~~((means))~~. The unconditional lease, rental, or charter of a boat by the owner, or owner's agent, to a person who by written agreement, or contract, assumes all responsibility and liability for the operation, navigation, and provisioning of the boat during the term of the agreement or contract, except when a captain or crew is required or provided by the owner or owner's agents to be hired by the charterer to operate the vessel.

~~((5))~~ **Carrying passengers or cargo** ~~((means))~~. The transporting of any person or persons or cargo on a vessel for a fee or other consideration.

~~((6))~~ **C.F.R.** ~~((means))~~. Code of Federal Regulations.

~~((7))~~ **Charter boat** ~~((means))~~. A vessel or barge operating on waters of the state of Washington which is:

(a) Not inspected or licensed by the United States Coast Guard and over which the United States Coast Guard does not exercise jurisdiction; and

(b) Rented, leased, or chartered to carry seven or more persons, or cargo.

~~((8))~~ **Commercial** ~~((means))~~. Any activity from which the operator, or the person chartering, renting, or leasing a vessel derives a profit, and/or which qualifies as a legitimate business expense under the Internal Revenue Statutes.

~~((9))~~ **Competent person** ~~((means))~~. Someone who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt action to eliminate them.

~~((10))~~ **Confined space** ~~((means))~~. A space that is all of the following:

(a) Large enough and arranged so that an employee could fully enter the space and perform work; and

(b) Has limited or restricted means for entry or exit. Examples of spaces with limited or restricted entry are tanks, vessels, silos, storage bins, hoppers, vaults, and pits; and

(c) Not primarily designed for human occupancy.

~~((11))~~ **Defect** ~~((means))~~. Any characteristic or condition that tends to weaken or reduce the strength of the tool, object, or structure of which it is a part.

~~((12))~~ **Department** ~~((means))~~. The department of labor and industries.

~~((13))~~ **Employee** ~~((means))~~:

(a) Someone who is employed in the business of an employer; and

(b) Every person in this state who is working for an employer under an independent contract for personal labor.

~~((14))~~ **Employer** ~~((means))~~. Any person, firm, corporation, partnership, business trust, legal representative, or other business entity that operates a passenger vessel for hire in this state and employs one or more employees or contracts with one or more persons for personal labor. Any person,

partnership, or business entity that has no employees, and is covered by the Industrial Insurance Act is considered both an employer and an employee.

~~((15))~~ **Enclosed space** ~~((means))~~. Any space, other than a confined space, which is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.

~~((16))~~ **Equipment** ~~((means))~~. A system, part, or component of a vessel as originally manufactured, or a system, part, or component manufactured or sold for replacement, repair, or improvement of a system, part, or component of a vessel; an accessory or equipment for a vessel; or a marine safety article, accessory, or equipment, including radio equipment, intended for use by a person on board a vessel.

~~((17))~~ **Hazard** ~~((means))~~. A condition, potential or inherent, that is likely to cause injury, death, or occupational disease.

~~((18))~~ **Hazardous substance** ~~((means))~~. A substance that, because it is explosive, flammable, poisonous, corrosive, oxidizing, irritating, or otherwise harmful, is likely to cause death or injury, including all substances listed on the USCG hazardous materials list.

~~((19))~~ **Inspection** ~~((means))~~. The examination of vessels by the assistant director or an authorized representative of the assistant director.

~~((20))~~ **Keel laid** ~~((means))~~. The date a vessel's keel was laid or the vessel was at a similar stage of construction.

~~((21))~~ **Maritime safety specialist** ~~((means))~~. A technical and operations specialist in maritime issues located in the department.

~~((22))~~ **Master** ~~((means))~~. The individual having command of the vessel and who is the holder of a valid license that authorizes the individual to serve as master of a small passenger vessel.

~~((23))~~ **Passenger** ~~((means))~~. A passenger who pays for carriage on a vessel, whether directly or indirectly to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

~~((24))~~ **Should** ~~((means))~~. Recommended.

~~((25))~~ **Standard safeguard** ~~((means))~~. A device intended to remove a hazard incidental to the machine, appliance, tool, or equipment to which the device is attached. Standard safeguards must be constructed of either metal, wood, other suitable material, or a combination. The final determination of the sufficiency of any safeguard rests with the assistant director.

~~((26))~~ **State waters** ~~((means))~~. All nonnavigable waters within the territorial limits of the state of Washington, and not subject to the jurisdiction of the United States Coast Guard.

~~((27))~~ **Substantial** ~~((means))~~. An object is constructed of such strength, material, and workmanship that it will withstand all normal wear, shock, and usage.

~~((28))~~ **Suitable** ~~((means))~~. That which fits, or has the qualities or qualifications to meet a given purpose, occasion, condition, function, or circumstance.

~~((29))~~ **Under way** ~~((means))~~. A vessel is not at anchor, made fast to the shore, or aground.

~~((30))~~ **USCG** ~~((means))~~. The United States Coast Guard.

~~((31))~~ **United States Coast Guard Navigation** ~~((means))~~. Rules International/Inland, Commandants Instruction M16672.2D as now adopted, or legally amended by the United States Coast Guard.

~~((32))~~ **Vessel** ~~((means))~~. Every description of motorized watercraft, other than a bare boat charter boat, seaplane, or sailboat, used or capable of being used to transport seven or more passengers, or cargo, on water for rent, lease, or hire.

~~((33))~~ **Working day** ~~((means))~~. A calendar day, except Saturdays, Sundays, and legal holidays as described in RCW 1.16.050. The time within which an act must be done is computed by excluding the first working day and including the last working day.

AMENDATORY SECTION (Amending WSR 08-20-123, filed 10/1/08, effective 11/1/08)

WAC 296-115-025 Vessel inspection and certification. (1) The department must inspect all vessels subject to this chapter to ensure they are safe and seaworthy at least once each year.

(2) The department may also inspect a vessel:

(a) If requested to do so by the owner, operator, or master of the vessel;

(b) After an explosion, fire, or any other accident involving the vessel;

(c) Upon receipt of a complaint from any person;

(d) At the discretion of the department.

(3) The department will charge the owner of a vessel a fee for each certification or recertification inspection. See WAC 296-115-120 for fee schedule.

(4) No person will operate a passenger vessel if the vessel does not have a valid certificate of inspection issued by the department.

(5) After inspecting a vessel and determining it is safe and seaworthy, the department will issue a certificate of inspection for that vessel. The certificate will be valid for one year after the date of inspection and contain:

(a) The certificate must set forth the date of the inspection;

(b) The names of the vessel and the owner;

(c) The number of lifeboats, if required;

(d) The number of life preservers required;

(e) The number of passengers allowed; and

(f) Any other information the department requires by rule.

(6) Any time a vessel is found to be not safe or seaworthy, or not in compliance with the provisions of this chapter:

(a) The department may refuse to issue a certificate of inspection until the deficiencies have been corrected and may cancel any certificate of inspection currently issued.

(b) The department must give the owner a written statement why the vessel was found to be unsafe, unseaworthy, or not in compliance with the provisions of this chapter, including a specific reference to the statute or rule.

(7) Department inspectors may, upon presenting their credentials to the owner, master, operator, or agent in charge of a vessel, board the vessel without delay to make an inspection.

(a) Inspectors must inform the owner, master, operator, or agent in charge that their intent is to inspect the vessel.

(b) During the inspection, inspectors must have access to all areas of the vessel. Inspectors may question privately the owner, master, operator, or agent in charge of the vessel, or any crew member of or passenger on the vessel.

(c) If any person refuses to allow inspectors to board a vessel for an inspection, or refuses to allow access to any areas of the vessel, the department may request a warrant from the superior court for the county in which the vessel is located. The court will grant the warrant if:

(*) (i) There is evidence that the vessel has sustained a fire, explosion, unintentional grounding, or has been involved in any other accident;

(*) (ii) There is evidence that the vessel is not safe or seaworthy; or

(*) (iii) The department shows that the inspection furthers a general administrative plan for enforcing the safety requirements of chapter 88.04 RCW, the Charter Boat Safety Act.

(8) The owner or master of a vessel must post the certificate of inspection behind glass or other suitable transparent material in a conspicuous area of the vessel.

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

WAC 296-115-050 General requirements. (1) Where an existing charter vessel does not meet a particular requirement of this section, the assistant director may grant:

(a) A temporary variance to allow time for modifications to be made.

(b) A permanent variance if the degree of protection afforded is judged to be adequate for the service in which the vessel is used.

(2) Lifesaving equipment required by this section must be approved by the USCG.

(3) The following lifesaving equipment is required:

(a) All vessels carrying passengers must carry life floats or buoyant apparatus for all persons on board.

(i) All life floats or buoyant apparatus must be international orange in color.

(ii) Vessels operating not more than one mile from land are not required to carry life floats or buoyant apparatus.

(iii) Lifeboats, life rafts, dinghies, dories, skiffs, or similar type craft may be substituted for the required life floats or buoyant apparatus if the substitution is approved by the assistant director.

(iv) Life floats, buoyant apparatus, or any authorized substitute must be U.S. Coast Guard approved and have the following equipment:

(*) (A) Two paddles or oars not less than four feet in length.

(*) (B) A painter of at least one-half inch diameter and thirty feet in length.

(b) All vessels must have a USCG-approved adult life preserver for the number of people the vessel is certified to carry, with at least ten percent additional of a type suitable for children or greater number to provide a life jacket for each child-sized person on board.

- (i) Life preservers must be stowed in readily accessible places in the upper part of the vessel; and
- (ii) Each life preserver must be marked with the vessel's name.
- (c) All vessels must carry in a readily accessible location at least one ring life buoy of an approved type with sixty feet of buoyant line attached. The ring life buoy must:
 - (i) Be ready to cast loose at any time; and
 - (ii) Have a floating water light, unless operation is limited to daytime.
- (4) Fire protection general.
 - (a) The general construction of a vessel must minimize fire hazards.
 - (b) Internal combustion engine exhausts, boiler and galley uptakes, and similar sources of ignition must be kept clear of and suitably insulated from woodwork or other combustible material.
 - (c) Lamp, paint, and oil lockers and similar storage areas for flammable liquids must be constructed of metal or lined with metal.
 - (5) Fire protection equipment. Equipment required to be of an approved type must be approved by the USCG or other agency acceptable to the director.
 - (a) Fire pumps.
 - (i) All vessels carrying more than forty-nine passengers must carry an approved power fire pump capable of reaching any part of the vessel.
 - (ii) All other vessels must carry an approved hand fire pump. These pumps must be provided with a suitable suction and discharge hose, and may also serve as bilge pumps.
 - (b) Fixed fire extinguishing system.
 - (i) The following vessels must have a fixed fire extinguishing system to protect the machinery and fuel tank spaces:
 - (*) (A) Those powered by internal combustion engines using gasoline or other fuel having a flashpoint of 110°F or lower; and

- (*) (B) Those with hulls constructed of fiber-reinforced plastic (FRP) or wood.
- (ii) This system must be an approved type and have a capacity sufficient to protect the space.
 - (iii) Controls for the fixed system must be installed in an accessible location outside the space protected.
 - (iv) A device must be provided to automatically shut down power ventilation serving the protected space and engines that draw intake air from the protected space prior to release of the extinguishing agent into the space.
- (c) Fire axe. All vessels must have one fire axe located in or near the pilothouse.
- (d) Portable fire extinguishers.
 - (i) All vessels must have a minimum number of portable fire extinguishers of an approved size and type. The number required will be determined by Table 1, Portable Fire Extinguishers.
 - (ii) Portable fire extinguishers must be inspected at least once a month. Extinguishers found defective must be serviced or replaced.
 - (iii) Portable fire extinguishers must be serviced at least once a year. The required service must consist of discharging and recharging foam and dry chemical extinguishers and weighing and inspecting carbon dioxide extinguishers.
 - (iv) Portable fire extinguishers must be hydrostatically tested at intervals not to exceed those specified in WAC 296-800-300 in the safety and health core rules.
 - (v) Portable fire extinguishers of the vaporizing liquid type such as carbon tetrachloride and other toxic vaporizing liquids are prohibited and must not be carried on any vessel.
 - (vi) Portable fire extinguishers must be mounted in brackets or hangers near the space protected. The location must be marked in a manner satisfactory to the assistant director.

Table 1
Portable Fire Extinguishers

Space Protected	Minimum # Required	Type Extinguisher Permitted		
		CG Class	Medium	Minimum Size
Operating station	1	B-I, C-I	Halon CO ₂ Dry chemical	2.5 lb. 4 lb. 2 lb.
Machinery space	1 Located just outside exit	B-II, C-II	CO ₂ Dry chemical	15 lb. 10 lb.
Open vehicle deck	1 for every 10 vehicles	B-II	Foam Halon CO ₂ Dry chemical	2.5 gal. 10 lb. 15 lb. 10 lb.
Accommodation space	1 for each 2,500 sq. ft. or fraction thereof	A-II	Foam Dry chemical	2.5 gal. 10 lb.
Galley, pantry, concession stand	1	A-II, B-II	Foam Dry chemical	2.5 gal. 10 lb.

(6) Means of escape.

(a) All vessels must have at least two avenues of escape from all general areas accessible to the passengers or where the crew may be quartered or normally employed. The avenues must be located so that if one is not available the other may be. At least one of the avenues should be independent of watertight doors.

(b) One vertical means of escape is acceptable where the length of the compartment is less than twelve feet under the following conditions:

(i) There is no source of fire in the space, such as a galley stove or heater and the vertical escape is remote from the engine and fuel tank space; or

(ii) The arrangement is such that the installation of two means of escape does not materially improve the safety of the vessel or those aboard.

(7) Ventilation.

(a) All enclosed spaces within the vessel must be properly vented or ventilated. Where such openings would endanger the vessel under adverse weather conditions, means must be provided to close them.

(b) All crew and passenger space must be adequately ventilated in a manner suitable to the purpose of the space.

(8) Crew and passenger accommodations.

(a) Vessels with crew members living aboard must have suitable accommodations.

(b) Vessels carrying passengers must have fixed seating for the maximum number of passengers permitted, installed as follows:

(i) Spacing that provides for ready escape in case of fire or other casualty.

(ii) Aisles not over fifteen feet long must be not less than twenty-four inches wide.

(iii) Aisles over fifteen feet long must be not less than thirty inches wide.

(iv) Where seats are in rows the distance from seat front to seat front must be not less than thirty inches.

(v) The assistant director may grant special exception to fixed seating spacing requirements if escape over the side can be readily accomplished through windows or other openings in the way of the seats.

(c) Portable or temporary seating may be installed but must be arranged as provided for fixed seating.

(9) Toilet facilities and drinking water.

(a) Vessels must be provided with toilets and wash basins as specified in WAC 296-800-230 unless vessels are used exclusively on short runs of approximately thirty minutes or less.

(b) All toilets and wash basins must be fitted with adequate plumbing. Facilities for men and women must be in separate compartments, except in the case of vessels carrying forty-nine passengers and less, the assistant director may approve other arrangements.

(c) Potable drinking water must be provided for all passengers and crew according to WAC 296-800-23005.

(d) Covered trash containers must be provided in passenger areas.

(10) Rails and guards.

(a) Rails or equivalent protection must be installed near the periphery of all weather decks accessible to passengers

and crews. Where space limitations make deck rails impractical for areas designed for crew only, such as at narrow catwalks in the way of deckhouse sides, hand grabs may be substituted.

(b) Rails must consist of evenly spaced courses. The spacing must not be greater than four inches except as provided in WAC 296-115-050 (10)(d). Lower rail courses may not be required if all or part of the space below the upper rail course is fitted with a bulwark, chain link fencing, wire mesh or the equivalent.

(c) On passenger decks of vessels engaged in ferry or excursion type operation, rails must be at least forty-two inches high. The top rail must be pipe, wire, chain, or wood and must withstand at least two hundred pounds of side loading. The space below the top rail must be fitted with bulwarks, chain link fencing, wire mesh, or the equivalent.

(d) On vessels engaged in other than passenger service, the rails must be not less than thirty-six inches high. Where vessels are used in special service, the assistant director may approve other arrangements, but in no case less than thirty inches high.

(e) Suitable storm rails or hand grabs must be installed where necessary in all passageways, at deckhouse sides, and at ladders and hatches where passengers or crew might have normal access.

(f) Suitable covers, guards, or rails must be installed in the way of all exposed and hazardous places such as gears or machinery. (See chapter 296-806 WAC, Machine safety for detailed requirements.)

(11) Machinery installation.

(a) Propulsion machinery.

(i) Propulsion machinery must be suitable in type and design for the propulsion requirements of the hull of the vessel in which it is installed. Installations meeting the requirements of the USCG or USCG-recognized classification society are considered acceptable to the assistant director.

(ii) Installations using gasoline or diesel as a fuel must meet the requirements of applicable USCG standards.

(b) Auxiliary machinery and bilge systems.

(i) All vessels must be provided with a suitable bilge pump, piping, and valves for removing water from the vessel.

(ii) Vessels carrying more than forty-nine passengers must have a power operated bilge pump. The source of power must be independent of the propulsion machinery. Other vessels must have a hand operated bilge pump, but may have a power operated pump if it is operated by an independent power source.

(c) Steering apparatus and miscellaneous systems.

(i) All vessels must be provided with a suitable steering apparatus.

(ii) All vessels must be provided with navigation lights and shapes, whistles, fog horns, and fog bells as required by the USCG rules of navigation.

(iii) All vessels must be equipped with a suitable number of portable battery lights for emergency purposes. There should be at least two, one located at the operating station and the other at the access to the propulsion machinery.

(d) Electrical installations. The electrical installations of all vessels must be at least equal to applicable USCG standards, or as approved by the assistant director.

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

WAC 296-115-060 Operations. (1) No person will rent, lease, or hire out a charter boat, carry, advertise for carrying, or arrange for carrying, more than six passengers on a vessel for a fee or other consideration on state waters unless the vessel meets the requirements of this chapter.

(2) Notice of casualty.

(a) The owner or person in charge of any vessel involved in a marine accident or casualty involving any of the following must report the incident immediately to the department:

(i) Damage to property in excess of one thousand five hundred dollars.

(ii) Major damage affecting the seaworthiness or safety of the vessel.

(iii) Loss of life or an injury to a person that requires medical treatment beyond first aid.

(iv) Fire on board the vessel.

(b) The report must be in writing to the assistant director. Upon receipt of the report the assistant director may request an investigation by a marine dock inspector.

(c) For work-related injuries and illness involving any employee that resulted in death, inpatient hospitalization, amputation or loss of an eye, ~~((the employer))~~ you must comply with the recordkeeping and reporting regulations in chapter 296-27 WAC.

(3) Miscellaneous operations.

(a) In the case of collision, accident, or other casualty involving a vessel, the operator(;) must:

(i) So far as possible without serious danger to the vessel or persons aboard, render any necessary assistance to other persons affected by the collision, accident, or casualty to save them from danger.

(ii) Provide the name and address of the vessel owner and the name of the vessel to any person injured and to the owner of any property damaged.

(b) The person in charge of the vessel must see that the provisions of the certificate of inspection are strictly adhered to. This will not limit the person in charge from taking any action in an emergency judged necessary to help vessels in distress or to prevent loss of life.

(c) The operator of a vessel must comply with the provisions of the USCG Navigation Rules International/Inland, Commandants Instruction M16672.2D.

(d) The operator of a vessel must test the vessel's steering gear, signaling whistle, controls, and communication system before getting under way for the day's operation.

(e) Vessels using fuel with a flashpoint of 110°F or lower must not take on fuel when passengers are on board.

(f) All vessels must enforce "no smoking" provisions when fueling. Locations on the vessel where flammable liquids are stored must be posted "no smoking."

(g) All vessels must prepare and post emergency check-off lists in a conspicuous place accessible to crew and passengers, covering the following:

(i) Man overboard.

(ii) Fire.

(h) The persons in charge must conduct emergency drills to ensure that the crew is familiar with their duties in an emergency and must document the drills.

(i) Carrying hazardous substances is prohibited on vessels. However, the assistant director may authorize a vessel to carry specific types and quantities of hazardous substances if the assistant director approves the type, quantity, and manner in which it is carried.

(j) All areas accessible to passengers or crew must be kept in a clean and sanitary condition. All walking surfaces must be free of slipping or tripping hazards and in good repair.

(4) First aid.

(a) All passenger vessels at all times must have a person holding a valid certificate of first-aid/CPR training.

(b) A first-aid kit or first-aid room must be provided on all vessels. The size and quantity of first-aid supplies or equipment required must be determined by the number of persons normally dependent upon each kit or equipment. The first-aid kit or supplies must be in a weatherproof container with individually sealed packages for each type of item. The location of the first-aid station or kit must be posted or marked "first aid" on the container.

WSR 17-08-031

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed March 28, 2017, 3:09 p.m.]

Supplemental Notice to WSR 16-20-081.

Preproposal statement of inquiry was filed as WSR 16-15-050.

Title of Rule and Other Identifying Information: WAC 182-551-1860 Concurrent care for hospice clients twenty years of age and younger.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Pear Conference Room 107, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 10, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia WA, 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, email arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on May 9, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed by May 5, 2017, email amber.lougheed@hca.wa.gov, (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency amended this rule to align the language with the federal rules in 42 U.S.C. 1396d (o)(1)(C) for hospice concurrent care. The amended language states that a client age twenty and younger may voluntarily elect hospice care without waiving any rights to services that the client is entitled to under Title XIX Medicaid and Title XXI Children's Health Insurance Program (CHIP) that are related to the treatment of the cli-

ent's condition for which a diagnosis of terminal illness has been made. The agency also removed the prior authorization requirement for enrollment in a concurrent care plan.

Reasons Supporting Proposal: The agency revised these rules in response to comments received from stakeholders in the first public hearing held on November 8, 2016, filed under WSR 16-20-081.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160, Section 2302 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 1396d (o)(1)(C).

Rule is necessary because of federal law, Section 2302 of the Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 1396d (o)(1)(C).

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy Barcus, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1306; Implementation and Enforcement: Nancy Hite, P.O. Box 75506, Olympia, WA 98504-5506, (360) 725-1611.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

March 28, 2017
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-09-079, filed 4/17/12, effective 5/18/12)

WAC 182-551-1860 Concurrent care for hospice clients age twenty ((years of age)) and younger. (1) In accordance with ~~((Section 2302 of the Patient Protection and Affordable Care Act of 2010 and Section 1814(a)(7) of the Social Security Act, hospice palliative services are available to))~~ 42 U.S.C. 1396d (o)(1)(C), a client ~~((s))~~ age twenty ((years of age)) and younger ((without forgoing curative services which)) may voluntarily elect hospice care without waiving any rights to services that the client is entitled to under Title XIX Medicaid and Title XXI Children's Health Insurance Program (CHIP) ~~((for treatment of the terminal condition))~~ that are related to the treatment of the client's condition for which a diagnosis of terminal illness has been made.

(2) ~~((Unless otherwise specified within this section, curative treatment including))~~ The related services in subsection (1) of this section and medications requested for clients age twenty ((years of age)) and younger are subject to the medicaid agency's specific program rules governing those services or medications.

(3) ~~((The following services aimed at achieving a disease-free state are included under the curative care benefit:~~

~~(a) Radiation;~~

~~(b) Chemotherapy;~~

~~(c) Diagnostics, including laboratory and imaging;~~

~~(d) Licensed health care professional services;~~

~~(e) Inpatient and outpatient hospital care;~~

~~(f) Surgery;~~

~~(g) Medication;~~

~~(h) Equipment and related supplies; and~~

~~(i) Ancillary services, such as medical transportation.~~

~~(4) The following are not included under the curative care benefit:~~

~~(a) Hospice covered services as described in WAC 182-551-1210;~~

~~(b) Services related to symptom management such as:~~

~~(I) Radiation;~~

~~(II) Chemotherapy;~~

~~(III) Surgery;~~

~~(IV) Medication; and~~

~~(V) Equipment and related supplies; and~~

~~(e) Ancillary services, such as medical transportation.~~

~~(5) Health care professionals must request prior authorization from the agency in accordance with WAC 182-501-0163 for enrollment in a concurrent care plan. Prior authorization requests are subject to medical necessity review under WAC 182-501-0165.~~

~~((6))~~ If the ((curative treatment)) services in this section include((s)) noncovered services ((in accordance with)) listed in WAC 182-501-0070, the provider must request an exception to rule ((in accordance with)) under WAC 182-501-0160.

~~((7))~~ (4) If the medicaid agency denies a request for a covered service, refer to WAC 182-502-0160, billing a client, for when a client may be responsible to pay for a covered service.

**WSR 17-08-033
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed March 29, 2017, 9:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-04-081.

Title of Rule and Other Identifying Information: Interchangeable biologics, prescription drug program, and therapeutic interchange, chapter 296-20 WAC, Medical aid rules.

This rule making will amend existing department of labor and industries (L&I) rules that are now inconsistent with a new law related to interchangeable biologics - ESB 5935 (chapter 242, Laws of 2015) and new rule language from the health care authority (HCA) related to the Washington state prescription drug program (PDP). The proposed language will also incorporate by reference the provisions of the therapeutic interchange in the HCA's WAC 182-50-200.

Hearing Location(s): L&I, Tumwater Headquarters Building, S119, 7273 Linderson Way S.W., Tumwater, WA 98501, on May 15, 2017, at 2:30 p.m.

Date of Intended Adoption: July 18, 2017.

Submit Written Comments to: Jami Lifka, P.O. Box 44321, Olympia, WA 98504-4321, email Jami.Lifka@lni.wa.gov, fax (360) 902-6315, written comments must be received no later than 5 p.m., May 15, 2017.

Assistance for Persons with Disabilities: Contact Jami Lifka by May 1, 2017, TTY 711 for (360) 902-4941 or directly to (360) 902-4941.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule language will create the following changes:

- WAC 296-20-03011 will be amended to include new content regarding "interchangeable biologics" that is explicitly and specifically dictated by ESB 5935 now codified in statute in RCW 69.41.110.
- Definitions in WAC 296-20-01002 need to be amended to be consistent with recently amended definitions of HCA regarding Washington state's PDP. HCA definitions will be adopted without material change.
- Language in WAC 296-20-03011 also will incorporate by reference HCA's rules for therapeutic alternatives and the therapeutic interchange. This will allow L&I's rules on this program to be consistent with HCA language now and for future HCA amendments.

Reasons Supporting Proposal: As an agency included in the definition of "state purchased health care" L&I must comply with these changes.

Statutory Authority for Adoption: RCW 51.04.020 and 51.04.030.

Statute Being Implemented: RCW 69.41.125, 69.41.110, 69.41.190, 41.05.011.

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: Jami Lifka, Office of the Medical Director, (360) 902-4941; Implementation: Jaymie Mai, PharmD, Pharmacy Manager, Office of the Medical Director, (360) 902-6792; and Enforcement: Vickie Kennedy, Assistant Director, Insurance Services, (360) 902-4997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required under RCW 19.85-025(3) referencing RCW 34.05.310 (4)(d) and (e) as the proposed rules make housekeeping changes without changing the effect of the rule, make changes required by statute (RCW 69.41.110), and adopt without material change and incorporate by reference amendments to HCA rules.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required referencing RCW 34.05.328 (5)(b)(iii) and (iv) because the proposed rules are required by statute (RCW 69.41.110), adopt without material change and incorporate by reference amendments to HCA rules, and make housekeeping changes without changing the effect of the rule. In addition, the proposed rule amendments are neither significant, interpretive nor procedural rules as defined by RCW 34.05.328 (5)(c).

March 29, 2017
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 15-17-104, filed 8/18/15, effective 10/1/15)

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

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

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

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

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

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

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

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

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

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

approval to continue supplying this service based on formal department review of their qualifications.

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

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

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

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

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

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

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

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

Chart notes: This type of documentation may also be referred to as "office" or "progress" notes. Providers must maintain charts and records in order to support and justify the

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

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

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

- (1) A detailed history to establish:
 - (a) The type and severity of the industrial injury or occupational disease.
 - (b) The patient's previous physical and mental health.
 - (c) Any social and emotional factors which may effect recovery.
- (2) A comparison history between history provided by attending doctor and injured worker, must be provided with exam.
- (3) A detailed physical examination concerning all systems affected by the industrial accident.
- (4) A general physical examination sufficient to demonstrate any preexisting impairments of function or concurrent condition.
- (5) A complete diagnosis of all pathological conditions including the current federally adopted ICD-CM codes found to be listed:
 - (a) Due solely to injury.
 - (b) Preexisting condition aggravated by the injury and the extent of aggravation.
 - (c) Other medical conditions neither related to nor aggravated by the injury but which may retard recovery.
 - (d) Coexisting disease (arthritis, congenital deformities, heart disease, etc.).
- (6) Conclusions must include:
 - (a) Type of treatment recommended for each pathological condition and the probable duration of treatment.
 - (b) Expected degree of recovery from the industrial condition.
 - (c) Probability, if any, of permanent disability resulting from the industrial condition.
 - (d) Probability of returning to work.

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

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

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

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

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

Fatal: When the attending doctor has reason to believe a worker has died as a result of an industrial injury or exposure, the doctor should notify the nearest department service location or the self-insurer immediately. Often an autopsy is required by the department or self-insurer. If so, it will be authorized by the service location manager or the self-insurer. Benefits payable include burial stipend and monthly payments to the surviving spouse and/or dependents.

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

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

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

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

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

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

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

therapists, psychologists, naturopathic physicians, and durable medical equipment dealers.

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

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

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

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

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

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

Under RCW 51.32.090, when the employer has modified work available for the worker, the employer must furnish the doctor and the worker with a statement describing the available work in terms that will enable the doctor to relate the physical activities of the job to the worker's physical limitations and capabilities. The doctor shall then determine whether the worker is physically able to perform the work described. The employer may not increase the physical requirements of the job without requesting the opinion of the doctor as to the worker's ability to perform such additional work. If after a trial period of reemployment the worker is unable to continue with such work, the worker's time loss compensation will be resumed upon certification by the attending doctor.

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

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

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

Practitioner or licensed health care provider: For these rules, means any person defined as a "doctor" under these rules, or licensed to practice one or more of the follow-

ing professions: Audiology; physical therapy; occupational therapy; pharmacy; prosthetics; orthotics; psychology; nursing; advanced registered nurse practitioners (ARNPs); certified medical physician assistants or osteopathic physician assistants; and massage therapy.

Preferred drug: A drug selected by the appointing authority for inclusion in the Washington preferred drug list and designated for coverage by applicable state agencies or a drug selected for coverage by applicable state agencies.

Preferred drug list: ((The list of drugs selected by the appointing authority to be used by applicable state agencies as the basis for the purchase of drugs in state purchased health care programs.)) Washington preferred drug list or "WPDL" is the list of drugs selected by the appointing authority to be used by applicable state agencies as the basis for the purchase of drugs in state purchased health care programs.

Proper and necessary:

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

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

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

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

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

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

(3) The department or self-insurer stops payment for health care services once a worker reaches a state of maximum medical improvement. Maximum medical improvement occurs when no fundamental or marked change in an accepted condition can be expected, with or without treatment. Maximum medical improvement may be present though there may be fluctuations in levels of pain and function. A worker's condition may have reached maximum medical improvement though it might be expected to improve or deteriorate with the passage of time. Once a worker's condition has reached maximum medical improvement, treatment that results only in temporary or transient changes is not proper and necessary. "Maximum medical improvement" is equivalent to "fixed and stable."

(4) In no case shall services which are inappropriate to the accepted condition or which present hazards in excess of the expected medical benefits be considered proper and necessary. Services that are controversial, obsolete, investigational or experimental are presumed not to be proper and nec-

essary, and shall be authorized only as provided in WAC 296-20-03002(6) and 296-20-02850.

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

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

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

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

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

Therapeutic interchange: To dispense ~~((with the endorsing practitioner's authorization, a therapeutic alternative to the))~~ a preferred drug in place of a prescribed nonpreferred drug within the same therapeutic class listed on the Washington preferred drug list.

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

Total temporary disability: Full-time loss compensation will be paid when the worker is unable to return to any

type of reasonably continuous gainful employment as a direct result of an accepted industrial injury or exposure.

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

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

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

AMENDATORY SECTION (Amending WSR 13-12-024, filed 5/28/13, effective 7/1/13)

WAC 296-20-03011 What general limitations are in place for drugs? (1) **Amount dispensed.** The department or self-insurer will pay for no more than a thirty-day supply of a drug dispensed at any one time except in pension cases (see subsection (6) of this section) and claims that are held open for life-sustaining treatment. In these cases, up to a ninety-day supply of the drug is payable when:

- Coverage has been authorized; and
- The drug is not a controlled substance; and
- The drug is obtained through a designated provider.

(2) **Over-the-counter drugs.** Prescriptions for over-the-counter items may be paid. Special compounding fees for over-the-counter items are not payable.

(3) **Generic drugs or interchangeable biological products.** (~~Prescriptions are to be written for~~) Generic drugs or interchangeable biological products must be dispensed when available unless the provider specifically indicates that substitution is not permitted. (~~For example: The worker cannot tolerate substitution. Pharmacists are instructed to fill with generic drugs unless the provider specifically indicates substitution is not permitted.~~)

(4) **Evidence-based prescription drug program.** In accordance with RCW 70.14.050, the department in cooperation with other state agencies may develop a preferred drug list. Any pharmacist filling a prescription (~~(under)~~) for participating state purchased health care programs ((as defined in RCW 41.05.011(2)) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppressive drug (see RCW 69.41.190), or for the refill of an immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks or the nonendorsing practitioner has received prior authorization from the department to fill the prescription as

~~written, in which case the pharmacist shall dispense the prescribed nonpreferred drug)) shall dispense the preferred drug in accordance with the endorsing practitioner therapeutic interchange program (see WAC 182-50-200).~~

(5) **Prescriptions for unrelated medical conditions.** The department or self-insurer may consider temporary coverage of prescriptions for conditions not related to the industrial injury when such conditions are retarding recovery. Any treatment for such conditions must have prior authorization per WAC 296-20-055. This would apply to any prescription for such conditions even when the endorsing practitioner indicates "dispense as written."

(6) **Pension cases.** When the worker is placed on a pension, the department or self-insurer may pay, at the sole discretion of the supervisor of industrial insurance, for only those drugs authorized for continued medical treatment of previously accepted conditions:

(a) Coverage must be authorized before the treatment is rendered.

(b) Controlled substances used to treat continuing pain resulting from an industrial injury or occupational disease are not payable.

WSR 17-08-034

PROPOSED RULES

SPOKANE REGIONAL CLEAN AIR AGENCY

[Filed March 29, 2017, 10:02 a.m.]

Original Notice.

Proposal is exempt under RCW 70.94.121(1).

Title of Rule and Other Identifying Information: Amend SRCAA Regulation I, Article X: Fees and Charges.

Hearing Location(s): Spokane Regional Clean Air Agency (SRCAA), 3104 East Augusta Avenue, Spokane, WA 99207, on June 1, 2017, at 9:30 a.m.

Date of Intended Adoption: June 1, 2017.

Submit Written Comments to: Margee Chambers, 3104 East Augusta Avenue, Spokane, WA 99207, email PublicComment@spokanecleanair.org, fax (509) 477-6827, by June 1, 2017, close of hearing.

Assistance for Persons with Disabilities: Contact Mary Kataoka by May 30, 2017, (509) 477-4727 ext. 100.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **Purpose:** SRCAA is proposing to revise SRCAA Regulation I, Article X: Fees and Charges, to improve clarity and readability, include fee calculation methodology to allow hourly fee rates to reflect program hourly costs, and update formatting for consistency among articles.

Anticipated effects: The proposed regulation amendments will improve clarity, readability, formatting consistency, and adjust specific fees as the agency works towards full cost recovery of fee based programs.

Changes to existing rules: Proposed changes to SRCAA Regulation I, Article X: Fees and Charges include: Formatting updates to increase consistency among articles; text edits to improve clarity and readability; remove registra-

tion information late fee subsection; update calculating annual registration fee without required registration information text and move; update additional fee for failure to pay text and renumber; add new subsection method of calculating fees; include fee calculation methodology to include formula used to calculate hourly fee for acid deposition fee and miscellaneous fees; clarify the fee structure for variance fee that is outlined in Article III, revise fee structure and include fee calculation methodology to include formula used to calculate hourly fee for fees for changes to an order of approval or permission to operate, permit application fee, and paving waiver fee; add payment of fees subsection to clarify payment is required; and remove duplicative periodic fee review text from multiple sections and insert updated periodic fee review text to one subsection.

Reasons Supporting Proposal: The intent of the proposed regulation amendments will improve readability and understanding and adjust specific fees as the agency works towards full cost recovery of fee based programs.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: Chapter 70.94 RCW.

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

Name of Proponent: SRCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Margee Chambers, SRCAA, (509) 477-4727; Implementation and Enforcement: Finance and HR section manager, SRCAA, (509) 477-4727.

No small business economic impact statement has been prepared under chapter 19.85 RCW. SRCAA is not subject to the small business economic impact provision of the Administrative Procedures [Procedure] Act, and is not a school district.

A cost-benefit analysis is not required under RCW 34.05.328. SRCAA is a local air agency, per RCW 70.94.-141, RCW 34.05.328 does not apply.

March 29, 2017
Margee Chambers
Rule Writer/SIP Planner

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 17-09 issue of the Register.

WSR 17-08-038
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed March 29, 2017, 12:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-121.

Title of Rule and Other Identifying Information: Amends WAC 181-82A-204 removing pathway requirements for adding an additional endorsement to an existing certification. Provides for either testing or, in the case of broad subject area certificates, additional coursework requirements.

Hearing Location(s): The Hampton Inn, 486 Bradley Boulevard, Richland, WA 99352, on May 18, 2017, at 8:30.

Date of Intended Adoption: May 18, 2017.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, email david.brenna@k12.wa.us, fax (360) 586-4548, by May 11, 2017.

Assistance for Persons with Disabilities: Contact David Brenna by May 11, 2017, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Streamlines adding endorsements for most subject areas. Requires university course work for broad subject endorsements as identified and published by the professional educator standards board.

Reasons Supporting Proposal: Creates more realistic and attainable requirements.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736, Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, email david.brenna@k12.wa.us.

March 29, 2017
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 15-23-015, filed 11/6/15, effective 12/7/15)

WAC 181-82A-204 Endorsement requirements. (1) Candidates completing endorsements required to obtain a residency certificate, shall complete college/university teacher preparation programs approved by the professional educator standards board pursuant to chapter 181-78A WAC, which include methodology (see WAC 181-78A-264(5)) and field experience/internship (see WAC 181-78A-264(6)) and pursuant to endorsement program approval requirements in this chapter.

(2) In order to add an additional endorsement, the candidate shall:

(a) Have completed a state-approved endorsement program which includes methodology (see WAC 181-78A-264(5)) and addresses all endorsement-specific competencies adopted and published by the professional educator standards board. The requirement for field experience shall be at the discretion of the college/university. Provided, that in cases where programs require a field experience/internship, the colleges/universities should make every attempt to allow the individual to complete field-based requirements for the

endorsement within the confines of the individual's teaching schedule; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate; or

(c) Pass the subject knowledge test approved by the professional educator standards board for the certificate endorsement being sought ~~((The instructional methodology and content related skills of the desired subject endorsement must be compatible with one or more of the current endorsement(s) on the applicant's teacher certificate.))~~ per the list of ~~((Pathway 1))~~ endorsements adopted and published by the professional educator standards board; or

(d) ~~((Pass the subject knowledge test approved by the professional educator standards board for the certificate endorsement being sought and successfully meet all eligibility criteria and process requirements for Pathway 2 endorsements as adopted and published by the professional educator standards board. The desired subject endorsement must be identified as a Pathway 2 endorsement for one or more of the current endorsement(s) on the applicant's teacher certificate, per the list of Pathway 2 endorsements adopted and published by the professional educator standards board.~~

~~Teacher preparation programs that offer Pathway 2 endorsement programs shall follow process steps as adopted by the professional educator standards board and published by the superintendent of public instruction to verify successful completion of the Pathway 2 process and to recommend adding the endorsement to the applicant's teacher certificate.))~~ For certain posted endorsements for broad subject areas, complete and pass courses as described in subsection (4) of this section in addition to the testing requirement in (c) of this subsection.

(3) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) Course work used to meet endorsement requirements must be completed through a ~~((regionally))~~ nationally accredited college/university.

(5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(6) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

WSR 17-08-043

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)

[Filed March 30, 2017, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-03-066.

Title of Rule and Other Identifying Information: The department is proposing to amend chapter 388-827 WAC, State supplementary payment program.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 10, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 9, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by April 25, 2017, phone (360) 664-6092, TTY (360) 664-6178, or email KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend chapter 388-827 WAC to improve clarity and update policy. In accordance with ESSB 6052, section 205, 64th legislature (2015) and SSA-authorized state plan amendments, these amendments offer state supplementary payment program (SSP) to clients who received prevocational services as of September 1, 2015. A state plan amendment was authorized by the Social Security Administration which added prevocational legacy as an SSP payment. In order to keep in compliance with the state plan, these rules are being updated. In addition, the federal government requires that the department meet the SSP maintenance of effort (MOE).

Prevocational services do not meet the Centers for Medicare and Medicaid Services (CMS) federal requirements as an integrated setting. SSP prevocational legacy will allow developmental disabilities administration clients to transition from prevocational services, which do not meet CMS requirements to access services, in an integrated setting. SSP prevocational legacy may be used to purchase needed services, such as respite, and other community services.

Reasons Supporting Proposal: These rule changes are necessary to meet MOE and to prevent risk of losing federal funding by jeopardizing the medicaid program, help the welfare of individuals transitioning from prevocational services to more integrated community settings, allow clients to more easily remain in the community setting, and make it less likely for a client to enter into an institutional setting.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.030, ESSB 6052, section 205, 64th legislature (2015).

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, (360) 407-1581; Implementation and Enforcement: Lonnie

Keesee, P.O. Box 45310, Olympia, WA 98504-5310, (360) 407-1529.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 the department is exempt from preparing a small business economic impact statement because these amendments do not impose more than minor costs on small businesses.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone (360) 407-1581, fax (360) 407-0955, email DiazCM1@dshs.wa.gov.

March 29, 2017
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

WAC 388-827-0100 ~~What is ((the)) a state supplementary payment (((SSP) that is administered by the division of developmental disabilities (DDD)))? (1) The state supplementary payment (((SSP))) is a state-paid cash assistance program for ((certain)) eligible clients of the ((division of)) developmental disabilities administration.~~

(2) There are five types of state supplementary payment:

- (a) Children's legacy care;
- (b) Home and community based services waiver;
- (c) Prevocational legacy;
- (d) Residential habilitation; and
- (e) State supplementary payment in lieu of individual and family services.

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

WAC 388-827-0105 ~~((What are the eligibility requirements for the DDD/SSP program)) Who is eligible for a state supplementary payment? ((To be eligible to receive DDD/SSP, you must be determined DDD eligible under RCW 71A.10.020 and meet all of the financial and programmatic criteria for DDD/SSP)) (1) The developmental disabilities administration (DDA) must not enroll you in state supplementary payments after the effective date of this section, unless you are eligible for a state supplementary payment for prevocational legacy.~~

(2) To be eligible for a state supplementary payment, you must meet all general eligibility requirements under subsection (3) of this section and any applicable program-specific requirements under subsections (4) through (8) of this section.

(3) To be eligible for a state supplementary payment, you must:

- (a) Be determined DDA eligible under chapter 388-823 WAC;
- (b) Complete an in-person interview and reassessment with DDA once every twelve months—or more often if DDA deems it necessary—to determine whether you continue to meet eligibility requirements; and

(c) Be financially eligible because:

(i) You receive supplementary security income cash assistance for the month in which the state supplementary payment is issued; or

(ii) You receive social security Title II benefits as a disabled adult child, your SSI was terminated due to the receipt of these benefits, and you would be eligible for SSI if you did not receive these benefits.

(4) To be eligible for children's legacy care state supplementary payments, you must live with your family as defined in WAC 388-832-0001.

(5) To be eligible for a state supplementary payment for waiver services, you must be enrolled in a home and community based services waiver program as described in chapter 388-845 WAC.

(6) To be eligible for prevocational legacy state supplementary payments, you must:

(a) Have left prevocational services on or after September 1, 2015; and

(b) Not be enrolled in a DDA residential habilitative service.

(7) To be eligible for residential habilitation state supplementary payments, you must be receiving a residential habilitation service as described in chapter 388-845 WAC and as identified in your person-centered service plan.

(8) To be eligible for state supplementary payments in lieu of individual and family services you must be:

(a) At least three years old; and

(b) Living with your family as defined in WAC 388-832-0001.

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

WAC 388-827-0120 ~~((How often will my eligibility for DDD/SSP be redetermined)) May DDA deny, reduce, or terminate a state supplementary payment? ((Redetermination of eligibility for the DDD/SSP program will be conducted at least every twelve months, or more frequently if deemed necessary by DDD)) (1) The developmental disabilities administration (DDA) may deny, reduce, or terminate a state supplementary payment if one or more of the following is true:~~

(a) You do not meet the eligibility requirements under WAC 388-827-0105;

(b) You do not cooperate with DDA during:

(i) Service planning; or

(ii) Required quality assurance and program monitoring activities;

(c) You choose to unenroll from state supplementary payments.

(2) Except for state supplementary payments for prevocational legacy and state supplementary payments for waiver services, DDA will terminate your state supplementary payment if you enroll in a home and community based services waiver.

(3) State supplementary payments are limited to available funding.

(4) DDA will terminate your state supplementary payments for prevocational legacy if you enter into a DDA prevocational service or a DDA residential habilitation service.

AMENDATORY SECTION (Amending WSR 07-24-030, filed 11/28/07, effective 12/29/07)

WAC 388-827-0125 ((How will I know if I am eligible to receive a DDD/SSP payment)) If DDA denies, reduces, or terminates a state supplementary payment, what may I do? ((You will receive a written notification from DDD if you have been identified as eligible for a DDD/SSP payment)) (1) If the developmental disabilities administration (DDA) denies, reduces, or terminates a state supplementary payment, you may request an administrative hearing, an exception to rule under WAC 388-440-0001, or both.

(2) To request an administrative hearing, see WAC 388-825-120 through 388-825-165.

(3) To request an exception to rule, you must submit a written request for an exception to rule to the DDA regional administrator.

(4) DDA may grant an exception to any requirement in this chapter if the assistant secretary decides that the facts of your case justify an exception to rule.

(5) DDA must notify you in writing of the assistant secretary's decision no later than sixty days after the regional administrator received your request for an exception to rule.

(6) You do not have the right to challenge at an administrative hearing the assistant secretary's decision regarding your request for an exception to rule. You may have a hearing right under WAC 388-825-120.

AMENDATORY SECTION (Amending WSR 14-07-028, filed 3/10/14, effective 4/10/14)

WAC 388-827-0145 How much money will ((I receive)) DDA authorize? ((The purpose of the SSP is to increase the amount of income to meet your needs. The department will determine your payment amount based on your living arrangement and your assessed needs.))

(1) ((For residential and voluntary placement program services, the amount of your SSP will be based on the amount of state-only dollars spent on certain services at the time the funding source was converted to SSP. If the type of your residential living arrangement changes, your need will be reassessed and your payment adjusted based on your new living arrangement and assessed need.

(2) If you receive SSP in lieu of individual and family services you will receive the following amounts based on your DDA assessment)) If you are authorized to receive a state supplementary payment for residential habilitation:

(a) DDA will base your payment on your residential need as identified in your current person-centered service plan.

(b) DDA will reassess your need and may adjust your payment amount if the type of your residential living arrangement changes.

(2) If you are authorized to receive a home and community based services (HCBS) waiver state supplementary payment, DDA authorizes seventy-five dollars per month.

(3) If you are authorized to receive children's legacy state supplementary payment, DDA authorizes one hundred dollars per month.

(4) If you are authorized to receive a prevocational legacy state supplementary payment, DDA authorizes three hundred dollars per month.

(5) If you are authorized to receive a state supplementary payment in lieu of individual and family services (IFS), your IFS score determines your monthly payment amount:

<u>((If your individual and family services score is:)) IFS score</u>	<u>((The award level will be)) Award level</u>	<u>((The amount of your award will be)) Monthly payment</u>
0-60	<u>((Not eligible)) No award</u>	<u>((Not eligible)) \$0</u>
61-240	<u>((Level 1)) Level 1</u>	<u>(((\$1,200)) \$100</u>
241-336	<u>((Level 2)) Level 2</u>	<u>(((\$1,800)) \$150</u>
337-527	<u>((Level 3)) Level 3</u>	<u>(((\$2,400)) \$200</u>
528 or more	<u>((Level 4)) Level 4</u>	<u>(((\$3,600)) \$300</u>

((a) If you are on the home and community based services (HCBS) waiver administered by DDD:

(i) You will receive nine hundred dollars DDD/SSP money per year to use as you determine.

(ii) The remainder up to the maximum yearly award for traditional family support or family support opportunities may be authorized by DDD to purchase HCBS waiver services and will be paid directly to the provider.

(b) If you are not on the HCBS waiver administered by DDD, and you received state only funding for the traditional family support program between March 1, 2001 and June 30, 2003 the amount of your SSP will be based on the yearly maximum allowed at the time the funding source was converted to SSP unless your need changes.

(i) Need is based on your service need level and whether you receive medicaid personal care as specified in WAC 388-825-254.

(ii) If your need changes, the amount of your SSP will be adjusted accordingly.

(c) If you are not on the HCBS waiver administered by DDD, and you received state only funding for the family support opportunity program between March 1, 2001 and June 30, 2003 the amount of your SSP will be fifteen hundred dollars per year.

(d) The yearly amount of DDD/SSP money will be prorated into monthly amounts. You will receive one twelfth of the yearly amount each month.

(3) If you are eligible for SSP because you meet the criteria in WAC 388-827-0115(5), you will receive one hundred dollars per month.

(4) DDD may authorize additional payments to certain individuals if the SSP budget has sufficient funds to allow this payment)) (6) Opting out of home and community based

services waiver will not increase your state supplementary payment.

(7) DDA may authorize additional payments to individuals authorized to receive a state supplementary payment if DDA's state supplementary payment budget allows.

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

WAC 388-827-0155 (~~Who will the warrant/check be sent to~~) **How will DDA send my state supplementary payment?** (1) ~~((If you are a child under the age of eighteen, the warrant/check will be sent to your legal representative or protective payee or representative payee))~~ You may choose to have DDA send your state supplementary payment through:

- (a) Electronic funds transfer; or
- (b) The U.S. Postal Service.

(2) If you are ((a person)) under age eighteen ((and older)), ((the warrant/check will be sent directly)) the developmental disabilities administration (DDA) sends your supplementary payment to your ((protective payee or)) representative payee ((if you have one)).

(3) If you are age eighteen or older, DDA sends your state supplementary payment to your representative payee if you have one. If you do not have a ((protective payee or)) representative payee, ((the warrant/check will be sent)) DDA will send your state supplementary payment directly to you.

NEW SECTION

WAC 388-827-0157 **What is a representative payee?**

(1) A representative payee is a person or entity that receives and manages your state supplementary payments on your behalf.

(2) If the Social Security Administration assigned a representative payee to you, the developmental disabilities administration (DDA) will send your state supplementary payments to that representative payee.

(3) If you do not have a representative payee and your wish to establish one:

(a) You must nominate a person or entity to be your representative payee; and

(b) DDA must confirm your nominee.

(4) When deciding whether to confirm your nominee, DDA may consider:

- (a) The nominee's:
 - (i) Relationship to you;
 - (ii) Interest in your well-being;
 - (iii) Understanding of your needs;
 - (iv) Existing legal authority, if any, to act on your behalf;

and

(b) Any other information known to DDA.

(5) If DDA declines to confirm the person or entity you nominated, DDA must send you written notice within thirty days of its decision.

(6) A representative payee must:

(a) Spend your state supplementary payment on your behalf;

(b) Notify DDA of any changes in your circumstances that could affect your eligibility to receive a state supplementary payment;

(c) Notify DDA of any change in the representative payee's ability to comply with this chapter;

(d) Submit to DDA upon request a written account of how each state supplementary payment received on your behalf was spent; and

(e) Accept liability for any overpayment under WAC 388-827-0400(3).

AMENDATORY SECTION (Amending WSR 04-02-015, filed 12/29/03, effective 1/29/04)

WAC 388-827-0400 **What is ((an SSP)) a state supplementary payment overpayment?** (1) An overpayment ~~((means any SSP paid that is more than the amount you were eligible to receive))~~ occurs if you or your representative payee receive state supplementary payment funds and at the time the developmental disabilities administration (DDA) paid the funds:

(a) You were not eligible to receive the funds under WAC 388-827-0105; or

(b) The sum DDA paid exceeds the sum you were eligible to receive under WAC 388-827-0145.

(2) ((If you request a hearing and the hearing decision determines that you received any DDD/SSP money that you were not eligible to receive, then some or all of the DDD/SSP you received before the hearing decision must be paid back to the department)) You are liable to DDA for the amount of the overpayment if:

(a) You received the overpayment directly; or

(b) Your representative payee received the overpayment in good faith and spent the money on your behalf.

(3) Your representative payee is liable to DDA for the amount of the overpayment if the representative payee:

(a) Has not spent the state supplementary payment funds on your behalf; or

(b) Received the state supplementary payment in bad faith.

(4) A representative payee received a state supplementary payment in bad faith if the representative payee knew you were not entitled to some or all of that payment.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-827-0110	What are the financial eligibility requirements to receive DDD/SSP?
WAC 388-827-0115	What are the programmatic eligibility requirements for DDD/SSP?
WAC 388-827-0121	Will I need an assessment to remain eligible for SSP?
WAC 388-827-0130	Can I choose not to accept DDD/SSP payments?
WAC 388-827-0131	What happens if I no longer meet the financial or programmatic requirements after my funding has been converted to the DDD/SSP program?

- WAC 388-827-0133 What is the impact on medicaid eligibility on the receipt of state supplemental payments (SSP)?
- WAC 388-827-0135 Can I apply for the DDD/SSP program if I am not identified by DDD as eligible for the DDD/SSP program?
- WAC 388-827-0140 What are my appeal rights if DDD determines that I am not eligible for DDD/SSP?
- WAC 388-827-0146 May I voluntarily remove myself from the home and community based services (HCBS) waiver administered by DDD in order to increase the amount of my SSP?
- WAC 388-827-0150 How often will I receive my DDD/SSP warrant/check?
- WAC 388-827-0160 How will the warrant/check be sent?
- WAC 388-827-0170 Are there rules restricting how I use my DDD/SSP money?
- WAC 388-827-0175 What changes must I report to the department?
- WAC 388-827-0180 Do I have additional responsibilities when I purchase my own services?
- WAC 388-827-0185 When will the department stop sending my DDD/SSP money?
- WAC 388-827-0200 What is a representative payee?
- WAC 388-827-0210 Who can be a representative payee for my DDD/SSP?
- WAC 388-827-0215 What are the responsibilities of a representative payee?
- WAC 388-827-0300 Does DSHS make exceptions to the requirements in this chapter?
- WAC 388-827-0410 When can an overpayment occur?
- WAC 388-827-0420 Who is liable for repayment of an overpayment?

WSR 17-08-045**PROPOSED RULES****OFFICE OF****FINANCIAL MANAGEMENT**

[Filed March 30, 2017, 12:08 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 357-49-0156 What documents must an employer provide when a request for director's review of an allocation or reallocation is filed?

Hearing Location(s): Office of Financial Management (OFM), Capitol Court Building, 1110 Capitol Way South, Suite 120, Conference Room 110, Olympia, WA 98501, on May 11, 2017, at 8:30 a.m.

Date of Intended Adoption: May 11, 2017.

Submit Written Comments to: Kristie Wilson, OFM, P.O. Box 47500, email Kristie.wilson@ofm.wa.gov, fax (360) 586-4694, by May 4, 2017. For OFM tracking purposes, please note on submitted comments "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact OFM by May 4, 2017, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendment clarifies that an employer must provide the employee's position description form that is on file at the time the position review request is filed.

Reasons Supporting Proposal: This proposal provides clarity, which is needed to ensure proper implementation.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristie Wilson, 128 10th Avenue S.W., Olympia, WA 98501, (360) 407-4139.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules related only to internal government operations. No impact to businesses or industry.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

March 30, 2017

Roselyn Marcus

Assistant Director of Legal
and Legislative Affairs

AMENDATORY SECTION (Amending WSR 16-11-058, filed 5/13/16, effective 6/20/16)

WAC 357-49-0156 What documents must an employer provide when a request for director's review of an allocation or reallocation is filed? (1) The employer must provide all documents considered during its review. For allocation or reallocation reviews, the documents must include:

- (a) Employee's position review request or equivalent;
- (b) Supervisor's statement section of the position review request or equivalent;
- (c) Employee's (~~current~~) position description form that is on file at the time of the review request;
- (d) Organizational chart containing the employee's position;
- (e) Employer's decision letter; and
- (f) All other documents considered during the review.

(2) All documents must be provided to the requestor and the requestor's representative, if applicable.

(3) The director or designee may request additional information at any time.

WSR 17-08-046
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed March 30, 2017, 12:13 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 357-31-326 When may an employer grant leave with pay?

Hearing Location(s): Office of Financial Management (OFM), Capitol Court Building, 1110 Capitol Way South, Suite 120, Conference Room 110, Olympia, WA 98501, on May 11, 2017, at 8:30 a.m.

Date of Intended Adoption: May 11, 2017.

Submit Written Comments to: Kristie Wilson, OFM, P.O. Box 47500, email Kristie.wilson@ofm.wa.gov, fax (360) 586-4694, by May 4, 2017. For OFM tracking purposes, please note on submitted comments "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact OFM by May 4, 2017, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendment adds language that limits the amount of paid leave an employee can take for life-giving procedures.

Reasons Supporting Proposal: Executive Order 02-01, Organ Donation and Other Life-Giving Procedures, orders all executive agencies to allow employees to take paid leave, not to exceed five days in a two-year period, as needed to participate in life-giving procedures.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristie Wilson, 128 10th Avenue S.W., Olympia, WA 98501, (360) 407-4139.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules related only to internal government operations. No impact to businesses or industry.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

March 30, 2017
Roselyn Marcus
Assistant Director of Legal
and Legislative Affairs

AMENDATORY SECTION (Amending WSR 09-03-014, filed 1/9/09, effective 2/13/09)

WAC 357-31-326 When may an employer grant leave with pay? (1) An employer **may** grant leave with pay for an employee to perform civil duties as a volunteer including but not limited to firefighting, search and rescue efforts, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(2) In the department of natural resources, leave with pay equivalent to one regular workshift **may** be allowed for the purpose of rest and recuperation after ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010.

WSR 17-08-047
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed March 30, 2017, 12:17 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 357-58-075 Must agencies have a salary administration policy? and 357-58-125 What is an involuntary downward movement and how does that affect the salary?

Hearing Location(s): Office of Financial Management (OFM), Capitol Court Building, 1110 Capitol Way South, Suite 120, Conference Room 110, Olympia, WA 98501, on May 11, 2017, at 8:30 a.m.

Date of Intended Adoption: May 11, 2017.

Submit Written Comments to: Kristie Wilson, OFM, P.O. Box 47500, email Kristie.wilson@ofm.wa.gov, fax (360) 586-4694, by May 4, 2017. For OFM tracking purposes, please note on submitted comments "FORMAL COMMENT."

Assistance for Persons with Disabilities: Contact OFM by May 4, 2017, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule amendment to WAC 357-58-075 addresses the requirement that Washington management service (WMS) salary administration policies (SAP) must be submitted to the state human resource (SHR) director for review and approval. The proposed rule amendment to WAC 357-58-125 clarifies that SAP are intended for WMS employees and salary determination policies are intended for Washington general service employees.

Reasons Supporting Proposal: OFM SHR Directive 17-01, effective January 27, 2017, requires all general government state agencies to submit their WMS SAP for director's review and approval.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Proponent: OFM, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kristie Wilson, 128 10th Avenue S.W., Olympia, WA 98501, (360) 407-4139.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Rules related only to internal government operations. No impact to businesses or industry.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

March 30, 2017
Roselyn Marcus
Assistant Director of Legal
and Legislative Affairs

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

WAC 357-58-075 (~~What is the requirement for agencies to develop compensation policies?~~) **Must agencies have a salary administration policy?** (1) Each agency must develop a salary administration (~~polices~~) policy that (~~are~~) is consistent with this chapter and guidelines established by the director's office for WMS positions.

(2) Each policy must be submitted for the director's review and approval.

AMENDATORY SECTION (Amending WSR 14-06-007, filed 2/20/14, effective 3/24/14)

WAC 357-58-125 What is an involuntary downward movement and how does that affect the salary? An involuntary downward movement is based on a nondisciplinary reassignment of duties that results in a lower salary standard and/or lower evaluation points for an employee's current position. A WMS employee occupying a position that is effected by an involuntary downward movement must be placed within the salary standard established for the WMS position at an amount equal to his/her previous base salary. If the previous base salary exceeds the new salary standard, the employee's base salary must be set equal to the maximum of the salary standard for the position. The employee's base salary may be set higher than the salary standard maximum, but not exceeding the previous base salary, if allowed by the employer's salary (~~determination~~) administration policy.

WSR 17-08-063

PROPOSED RULES

DEPARTMENT OF AGRICULTURE

[Filed March 31, 2017, 11:39 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: Chapter 16-532 WAC, Hops.

Hearing Location(s): Washington State Department of Agriculture, 21 North 1st Avenue, Conference Room 238, Yakima, WA 98902, on May 12, 2017, at 11:00 a.m.

Date of Intended Adoption: July 20, 2017.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, email wsdarules.comments@agr.wa.gov, fax (360) 902-2094, by May 12, 2017.

Assistance for Persons with Disabilities: Contact agency receptionist by May 1, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington hop commission wishes to amend WAC 16-532-040 (1)(a), Assessments and collections, by increasing the assessment rate from \$0.125 to \$0.15 per affected unit. The commission also seeks minor clarifying changes in WAC 16-532-010 Definitions, to specify that the "Affected unit" is defined as dried hops, and "Processed" excludes wet (fresh) hop cones as well as dried hop cones. In addition, contact information for the commission's public record[s] officer is updated to reflect an upcoming move of our office, and deleting reference to a web site that does not belong to the commission.

Reasons Supporting Proposal: The commission has determined that an increase in the assessment rate is necessary for the board to remain solvent in light of declining yields, due to the shift by the Washington hop industry to lower yielding aroma hop varieties, and program demands. This increase will allow the commission to continue to carry out its mandated mission.

Statutory Authority for Adoption: RCW 15.65.047, 42.56.040, and chapter 34.05 RCW.

Statute Being Implemented: Chapters 15.65 and 42.56 RCW.

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

Name of Proponent: Washington hop commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ann George, P.O. Box 1207, Moxee, WA 98936, (509) 453-4749.

No small business economic impact statement has been prepared under chapter 19.85 RCW. In accordance with RCW 15.65.570, the adoption of the final amendments to chapter 16-532 WAC will be determined by referendum vote of affected producers.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture and the Washington hop commission are not listed agencies under RCW 34.05.328 (5)(a)(i).

March 31, 2017

Kirk Robinson

Deputy Director

AMENDATORY SECTION (Amending WSR 17-05-032, filed 2/8/17, effective 3/11/17)

WAC 16-532-010 Definitions. For the purpose of this marketing order:

"Act" means the Washington State Agricultural Enabling Act of 1961 or chapter 15.65 RCW.

"Affected area" means the state of Washington.

"Affected producer" or "producer" means any person who produces hops in commercial quantities in the state of Washington.

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

"Affected unit" means one pound net of dried hops, or the amount of lupulin, extract or oil produced from pound net of dried hops.

"Commercial quantity" means any hops produced for market by a producer in any calendar year.

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

"Director" means the director of agriculture of the state of Washington or his duly appointed representative.

"Disclosure" means inspection or copying.

"Handler" means any person who acts as principal or agent or otherwise in processing, selling, marketing, or distributing hops not produced by him.

"Hop commodity board" hereinafter referred to as "board" means the commodity board formed under the provisions of WAC 16-532-020.

"Hops" means and includes all kinds and varieties of "humulus lupulus" grown, picked and dried in the state of Washington, whether loose, packaged or baled and all oils, extracts and/or lupulin derived therefrom.

"Marketing season" means the twelve-month period beginning with January 1st of any year and ending December 31st, both dates being inclusive.

"Person" means any person, firm, association or corporation.

"Processed" means and includes all hops which are converted into pellets, extracts, oils, lupulin, and/or other forms, including hops which are frozen in undried form, but excluding whole, wet (fresh) or dried hop cones, whether loose or baled.

"Producer-handler" means any person who acts both as a producer and as a handler with respect to hops. A producer-handler shall be deemed to be a producer with respect to the hops which he produces and a handler with respect to the hops which he handles, including those produced by himself.

"Public records" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the department regardless of physical form or characteristics.

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

AMENDATORY SECTION (Amending WSR 14-06-044, filed 2/26/14, effective 3/29/14)

WAC 16-532-040 Assessments and collections. (1) Assessments.

(a) The annual assessment on all varieties of hops shall be ~~((\$0.0125))~~ \$0.015 per affected unit, as approved by referendum vote of affected producers.

(b) For the purpose of collecting assessments the board may:

(i) Require handlers to collect producer assessments from producers whose production they handle, and remit the same to the board; or

(ii) Require the person subject to the assessment to give adequate assurance or security for its payment; or

(iii) Require the person subject to the assessment to remit assessments for any hops which are processed prior to the first sale; or

(iv) Require the person subject to the assessment to remit an inventory report for any hops which are not processed or sold prior to December 31 of the year in which they are produced.

(c) Subsequent to the first sale or processing, no affected units shall be transported, carried, shipped, sold, marketed, or otherwise handled or disposed of until every due and payable assessment herein provided for has been paid and the receipt issued. The foregoing shall include all affected units shipped or sold, both inside and outside the state.

(2) **Collections.** Any moneys collected or received by the board pursuant to the provisions of the order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the board determines to be reasonably adapted to effectuate the declared policies of this act and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received or may be carried over into and used with respect to the next succeeding season, year or period whenever the board finds that the same will tend to effectuate such policies and purposes.

(3) **Penalties.** Any due and payable assessment herein levied in such specified amount as may be determined by the board pursuant to the provisions of the act and the order, shall constitute a personal debt of every person so assessed or who otherwise owes the same, and the same shall be due and payable to the board when payment is called for by it. In the event any person fails to pay the board the full amount of such assessment or such other sum on or before the date due, the board may, and is hereby authorized to add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the board may bring a civil action against such person or persons in a state court of competent jurisdiction for the collection thereof, together with the above specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

AMENDATORY SECTION (Amending WSR 17-05-032, filed 2/8/17, effective 3/11/17)

WAC 16-532-135 Requests for public records. (1) All requests for disclosure of public records must be submitted in writing directly to the commission's public records officer by mail at P.O. Box ((1207, Moxee, WA 98936 or by e-mail at ageorge@wahops.org)) 2885, Yakima, WA 98907 or by email at washingtonhopcommission@gmail.com. The written request should include:

(a) The name of the person requesting the record and his or her contact information;

(b) The calendar date on which the request is made;

(c) Sufficient information to readily identify the records being requested.

(2) Any person wishing to inspect the commission's public records may make an appointment with the public records officer to inspect the records at the commission office during regular business hours. In order to adequately protect the department's public records, the following will apply:

(a) Public records made available for inspection may not be removed from the area the commission makes available for inspection.

(b) Inspection of any public record will be conducted in the presence of the public records officer or designee.

(c) Public records may not be marked or altered in any manner during inspection.

(d) The commission has the discretion to designate the means and the location for the inspection of records. The viewing of those records that require specialized equipment shall be limited to the availability of that equipment located at the commission office and the availability of authorized staff to operate that equipment.

AMENDATORY SECTION (Amending WSR 17-05-032, filed 2/8/17, effective 3/11/17)

WAC 16-532-160 Records index. The commission shall establish a records index, which shall be made available for public review. The records index may be accessed (~~on the commission's web site at www.usahops.org~~) by emailing the commission at washingtonhopcommission@gmail.com.

WSR 17-08-064
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Naturopathy)
[Filed March 31, 2017, 1:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-12-047.

Title of Rule and Other Identifying Information: WAC 246-836-610 [246-836-700] Temporary practice permit—Military spouse eligibility and issuance, adding a new section to provide for temporary practice permits to be issued to military spouses or state-registered domestic partners who hold out-of-state licenses as naturopathic physicians while they complete additional requirements not related to training or practice standards.

Hearing Location(s): Department of Health, 111 Israel Road S.E., Town Center 2 (TC2), Room 145, Tumwater, WA 98501, on June 23, 2017, at 1:00 p.m.

Date of Intended Adoption: June 23, 2017.

Submit Written Comments to: Susan Gragg, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by June 16, 2017.

Assistance for Persons with Disabilities: Contact Susan Gragg by June 16, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board of natu-

ropathy (board) is proposing to add a new section to chapter 246-836 WAC to establish the process and criteria for applicants who are military spouses or state-registered domestic partners to obtain temporary practice permits for naturopathic physicians. The proposed rule adopts secretary rules by reference and implements chapter 18.340 RCW regarding military spouses who moved to the state of Washington due to the transfer of the military person, and where the applicant must complete specific additional licensing requirements in Washington state. The applicant must be credentialed in another state with substantially equivalent standards and meet other specific criteria.

Reasons Supporting Proposal: The proposed rule is necessary to establish a process and criteria in order to expedite the credentialing process for an applicant to receive a temporary practice permit. The temporary practice permit will allow approved applicants who are military spouses or state registered domestic partners to practice in the full scope of their profession for up to one hundred eighty days pending issuance of permanent credentials.

Statutory Authority for Adoption: RCW 18.36A.160 and 18.340.020.

Statute Being Implemented: Chapter 18.340 RCW.

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

Name of Proponent: Washington state board of naturopathy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Susan Gragg, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4941.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(c), a small business economic impact statement is not required for proposed rules that adopt or incorporate by reference, without material change, federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

March 31, 2017
Blake T. Maresh
Executive Director

NEW SECTION

WAC 246-836-700 Temporary practice permit—Military spouse eligibility and issuance. A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for naturopathic physicians. The board adopts the procedural rules as adopted by the department of health in WAC 246-12-051.

WSR 17-08-066
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed March 31, 2017, 3:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-23-029.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-845-1610 Where can respite care be provided? and 388-845-1615 Who are qualified providers of respite care?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 10, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 9, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by April 26, 2017, phone (360) 664-6092, TTY (360) 664-6178, or email KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend these rules to remove references to overnight planned respite (OPR), which were mistakenly added to the sections under permanent rules filed previously as WSR 16-17-003. OPR is still an available service and is not impacted by these amendments. Other changes to these rules clarify language.

Reasons Supporting Proposal: These amendments are necessary to remove incorrect references to OPR. Emergency rules for these amendments have been filed as WSR 16-23-082 and 17-07-071.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.030.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, (360) 407-1581; Implementation and Enforcement: Ann Whitehall, P.O. Box 45310, Olympia, WA 98504-5310, (360) 407-1551.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025, the proposed rules do not require preparation of a small business economic impact statement because these amendments correct errors and clarify language without substantive changes as described in RCW 34.05.310(4).

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iv) [(5)(b)(iv)], the proposed rules do not require preparation of a cost-benefit

analysis because these amendments correct errors and clarify language.

March 29, 2017
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-845-1610 Where ~~((can))~~ may respite care be provided? (1) Respite care ~~((can))~~ may be provided in any of the following ~~((location))~~ licensed or certified settings that have a respite contract with the developmental disabilities administration (DDA):

- ~~(a) ((Individual's home or place of residence;~~
 - ~~(b) Relative's home;~~
 - ~~(c) Licensed children's foster home;~~
 - ~~(d) Licensed, contracted and DDA-certified group home;~~
 - ~~(e) Licensed assisted living facility contracted as an adult residential center;~~
 - ~~(f) Adult residential rehabilitation center;~~
 - ~~(g) Licensed and contracted adult family home;~~
 - ~~(h) Children's licensed group home, licensed staffed residential home, or licensed child care center;~~
 - ~~(i) Other community settings such as camp, senior center, or adult day care center; and~~
 - ~~(j) Certified overnight planned respite services home))~~
- Adult family home;

- (b) Assisted living facility;
- (c) Child care center;
- (d) Children's foster home;
- (e) Children's group home;
- (f) Group home;
- (g) Group training home;
- (h) Staffed residential home.

(2) Respite care may also be provided in:

- (a) The individual's home or place of residence;
- (b) The individual's relative's home; and
- (c) Other DDA-contracted community settings such as a camp, senior center, and adult day care center.

~~((2) Additionally,))~~ (3) Your respite care provider may take you into the community while providing respite services.

AMENDATORY SECTION (Amending WSR 16-17-003, filed 8/4/16, effective 9/4/16)

WAC 388-845-1615 Who ~~((are))~~ may be qualified providers of respite care? Providers of respite care ~~((can))~~ may be any of the following individuals or agencies contracted with ~~((DDA))~~ the developmental disabilities administration (DDA) for respite care:

- (1) Individuals ~~((meeting))~~ who meet the provider qualifications under chapter 388-825 WAC;
- (2) Homecare/home health agencies~~((;))~~ licensed under chapter 246-335 WAC, Part 1;
- (3) Licensed and contracted group homes, foster homes, child placing agencies, staffed residential homes, and foster group care homes;
- (4) Licensed and contracted adult family homes;

- (5) Licensed and contracted adult residential care facilities;
- (6) Licensed and contracted adult residential treatment facilities under chapter 246-337 WAC;
- (7) Licensed child care centers under chapter 170-295 WAC;
- (8) Licensed child day care centers under chapter 170-295 WAC;
- (9) Adult day care providers under chapter 388-71 WAC contracted with DDA;
- (10) Certified ~~((provider))~~ providers under chapter 388-101 WAC when respite is provided within the DDA contract for certified residential services; or
- (11) ~~((Certified overnight planned respite services providers under chapter 388-829R WAC; or~~
- (12)) Other DDA contracted providers such as a community center, senior center, parks and recreation, and summer programs.

WSR 17-08-067**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Developmental Disabilities Administration)

[Filed March 31, 2017, 3:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-04-031.

Title of Rule and Other Identifying Information: The department is proposing to [amend] WAC 388-828-1520 Where is the DDA assessment and reassessment administered?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 10, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAU RulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 9, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by April 25, 2017, phone (360) 664-6092, TTY (360) 664-6178, or email KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-828-1520 to require the department to ask any individual receiving a developmental disabilities administration (DDA)-paid service in their home or place of residence for permission to view their living quarters during the DDA assessment and any follow-up visit.

Reasons Supporting Proposal: These amendments are necessary to align the rule with RCW 71A.12.310.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.030, 71A.12.-310.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, (360) 407-1581; Implementation and Enforcement: Ron Bryan, P.O. Box 45310, Olympia, WA 98504-5310, (360) 407-1502.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310(4), the proposed rule is exempt from a small business economic impact statement because these amendments incorporate content dictated by statute.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iii) the proposed rule is exempt because these amendments incorporate content dictated by statute.

March 31, 2017

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-17-009, filed 8/4/16, effective 9/4/16)

WAC 388-828-1520 Where is the DDA assessment and reassessment administered? (1) DDA assessments and reassessments are administered ~~((in your home, place of residence, or at another))~~ at a location that is convenient to you, such as your home or place of residence.

(2) If you receive or plan to receive a DDA-paid service in your home or place of residence and the DDA assessment is not administered in your home or place of residence ~~((and if you receive a DDA paid service in your home or residence))~~, DDA will conduct a follow-up home visit to ensure your person-centered service plan/individual support plan can be implemented in your living environment.

(3) If you receive or plan to receive a DDA-paid service in your home or place of residence, DDA must ask permission to view your living quarters during the DDA assessment or follow-up home visit.

WSR 17-08-070**PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Long-Term Support Administration)

[Filed April 3, 2017, 11:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-04-069.

Title of Rule and Other Identifying Information: The department is proposing to amend chapter 388-96 WAC,

Nursing facility medicaid payment system, in accordance with legislative direction.

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on June 6, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 7, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., June 6, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by May 23, 2017, phone (360) 664-6092, TTY (360) 664-6178, or email KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend chapter 388-96 WAC in order to implement the nursing facility methodology changes from SHB 1274 found in chapter 2, Laws of 2015 2nd sp. sess., and SHB 2678, chapter 131, Laws of 2016.

The department is proposing to repeal WAC 388-96-534, 388-96-540, 388-96-552, 388-96-553, 388-96-554, 388-96-558, 388-96-559, 388-96-561, 388-96-562, 388-96-564, 388-96-565, 388-96-572, 388-96-574, 388-96-708, 388-96-709, 388-96-744, 388-96-746, 388-96-747, 388-96-748, 388-96-762, 388-96-767, 388-96-776, 388-96-783, 388-96-784, and 388-96-786. The department is proposing to amend WAC 388-96-010, 388-96-022, 388-96-107, 388-96-122, 388-96-205, 388-96-208, 388-96-211, 388-96-218, 388-96-502, 388-96-505, 388-96-525, 388-96-542, 388-96-554, 388-96-556, 388-96-560, 388-96-580, 388-96-585, 388-96-710, 388-96-713, 388-96-758, 388-96-759, 388-96-781, 388-96-782, and 388-96-901. The department is proposing to create WAC 388-96-915, 388-96-916, and 388-96-917.

Reasons Supporting Proposal: Legislative direction.

Statutory Authority for Adoption: RCW 74.46.800, 74.46.561(1).

Statute Being Implemented: SHB 1274, SHB 2678.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Elizabeth Pashley, 4450 10th Avenue S.E., Lacey, WA 98503, (360) 725-2447; Implementation and Enforcement: Peter Graham, 4450 10th Avenue S.E., Lacey, WA 98503, (360) 725-2499.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has analyzed the proposed rules and determined that they do not impose more than minor costs on affected small businesses or small nonprofit organizations.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Elizabeth Pashley, P.O. Box 45600, Lacey, WA 98503, phone (360) 725-2447, fax (360) 725-2641, email Elizabeth.Pashley@gmail.com.

March 31, 2017

Katherine I. Vasquez
Rules Coordinator

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 17-10 issue of the Register.

WSR 17-08-071
PROPOSED RULES
SECRETARY OF STATE

[Filed April 3, 2017, 2:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-12-067.

Title of Rule and Other Identifying Information: Combined fund drive rule update.

Hearing Location(s): Office of the secretary of state conference room, on May 9, 2017, at 11 a.m.

Date of Intended Adoption: June 6, 2017.

Submit Written Comments to: Heather Lucas, P.O. Box 40250, Olympia, WA 98504-0250, email Heather.Lucas@sos.wa.gov, fax (360) 586-5629.

Assistance for Persons with Disabilities: Contact Heather Lucas, (360) 902-4181.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule changes update and streamline the WAC for the combined fund drive office and charitable organizations.

Reasons Supporting Proposal: The proposed rule changes clarify and update existing WAC and update processes used by staff supporting the combined fund drive process.

Statutory Authority for Adoption: RCW 41.04.033.

Statute Being Implemented: Chapter 41.04 RCW.

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

Name of Proponent: Office of the secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Heather Lucas, P.O. Box 40250, Olympia, WA 98504-0250, (360) 902-4181.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

April 3, 2017

Mark Neary
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-020 Intent. The combined fund drive is the only authorized solicitation of Washington state employees in the workplace. The intent of the combined fund drive is to:

(1) Lessen the burdens of government and of local communities in meeting the needs of human health and welfare;

(2) Provide a convenient channel through which state employees, higher education employees and public agency retirees may contribute to the efforts of the participating organizations and federations providing services in Washington state and around the world; and

(3) Minimize (~~both~~) the disruption of the state workplace (~~and the costs to taxpayers~~) caused by multiple charitable fund drives(~~; and~~

(4) ~~Ensure that participating organizations and federations are fiscally responsible in the uses of the moneys so raised~~).

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-040 Definitions. The following definitions apply to chapter 434-750 WAC:

"Beneficiaries of the CFD" means any nonprofit organization that receives funds disbursed from the CFD.

"CFD" means Washington state combined fund drive.

"CFD campaign" means the period of organized solicitation of state employees, higher education employees and public agency retirees. This solicitation is conducted to obtain voluntary contributions, donations and charitable commitments to be allocated to (~~approved, not for-profit~~) participating organizations and federations. State agencies (~~or~~) and higher education institutions (~~of higher education~~) have the flexibility to conduct a CFD campaign once a year at any time during the year.

"Federation" means a public or private not-for-profit umbrella organization made up of five or more individual member organizations approved by the CFD (~~committee~~) to participate in the CFD campaign.

"Participating employer" means Washington state agencies, higher education institutions, government-related entities and related boards.

"Participating organization" means a public (~~170 (e)(1) or private 501 (e)(3) not for profit organization whose application is~~) or private not-for-profit organization designated as tax-exempt under the Internal Revenue Code 26 U.S.C. Sec. 501 (c)(3) or Sec. 170 (c)(1) and approved by the CFD to participate in the CFD campaign.

~~("State employer" means Washington state agencies and higher education institutions and related boards.~~

~~"Year of contributions" means the annual calendar year for collection of the voluntary payroll deductions for charitable contributions authorized by state employees and public agency retirees pursuant to these rules. The normal, full annual calendar year of contributions will begin with January and end with the ensuing December.)~~ "Volunteer" means a state employee or higher education employee chosen to represent the CFD and run the CFD campaign at their respective agency or higher education institution. Volunteers may be referred to as "volunteer," "campaign leader," or "local coordinator."

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-050 Handling and depositing contributions. (~~The office of the secretary of state will establish a procedure for CFD staff to collect, process and deposit individual employee contributions.~~) Contributions may be accepted in the form of payroll deduction, checks, money orders, credit cards, cash or electronic methods. Contributions from fund-raising efforts will be deposited into the CFD account in the custody of the state treasurer according to state laws. The office of the secretary of state must follow established procedures to process and deposit payroll deductions and individual contributions.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-060 Staff and volunteer positions. The office of the secretary of state (~~will~~) may establish staff (~~and volunteer positions and committees as necessary to assist in the annual~~) positions, and volunteer positions and committees to administer the CFD campaign.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-090 Contracts. The (~~CFD~~) office of the secretary of state may enter into contracts and partnerships with (~~a~~) private institutions, persons, firms or corporations for the benefit of the beneficiaries of the CFD. The office of the secretary of state may authorize CFD staff or volunteers, on a case-by-case basis, to enter into contracts and partnerships with private institutions, persons, firms or corporations for the benefit of the beneficiaries of the CFD. The CFD and its volunteers may also engage in advertising activities for the support of the administrative duties of the CFD. However, CFD activities (~~will~~) must not result in the direct commercial solicitation of state employees, higher education employees or public agency retirees or in a benefit or advantage that would violate one or more provisions of chapter 42.52 RCW, the state ethics law.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-100 Campaign (~~executives~~) leaders and local coordinators. Agency directors, elected officials and higher education presidents are authorized and encouraged to designate employees (~~the opportunity~~) to serve as CFD campaign (~~executives~~) leaders and local coordinators to assist in the conduct of the CFD campaign. (~~The~~) CFD campaign (~~executive opportunity is a rotational assignment that develops leadership, communication, and teamwork skills that will benefit the employing organization upon the employee's return. Those appointed as CFD campaign executives~~) leaders and local coordinators remain on the payroll of their employing organization during this assignment.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-110 CFD campaign support. State agencies and higher education institutions, at their discretion, are authorized to use reasonable state resources to support, promote, communicate information, and conduct the annual combined fund drive campaign within their organization in compliance with state ethics laws and ethics board opinions including, but not limited to, Executive Ethics Board Advisory Opinion 00-09. Reasonable uses are not excessive in volume or frequency as determined by the agency director or institution president.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-120 Local CFD campaigns. Each ~~((state))~~ participating employer may establish local CFD campaigns within the geographical area it covers. Each ~~((state))~~ participating employer and local county committee may develop promotional and fund-raising events, provide training and recognition to CFD local coordinators, develop marketing plans, supervise CFD campaign ~~((executives))~~ leaders and local coordinators, and expend reasonable state resources or CFD funds to conduct the local CFD campaign.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-130 CFD campaign ~~((occurrence))~~ duration. Each year the director of each ~~((state))~~ participating agency and president of each higher education institution may determine the time period of the agency's or institution's CFD campaign. ~~((Each annual CFD campaign normally is conducted for a seven-week period. However, in unusual circumstances, the individual state employers may extend the seven-week period as local conditions require.))~~

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-140 ~~((Permission to share information during work hours.))~~ Equal opportunity for participating organizations and federations. ~~((The local state employer may grant sharing of information during the CFD campaign, by participating organizations if the agency or institution determines such communication is not disruptive to the local state office or institution.))~~ All CFD participating organizations and federations must be given an equal opportunity for communication in a ~~((state))~~ participating employer's local CFD campaign.

This section ~~((will))~~ may not be construed to require a ~~((state))~~ participating employer to distribute or arrange for oral or written information other than the official CFD campaign and publicity material.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-150 Campaign events during work hours. State employees and higher education employees are permitted to conduct CFD events, communications and solicitations per the Ethics Board ruling. Solicitations of state employees ~~((will be))~~ or higher education employees conducted during work hours ~~((using))~~ must use methods that permit true voluntary giving. Solicitations ~~((will))~~ must reserve to the individual the option of disclosing any ~~((gift or keeping it confidential))~~ contribution or maintaining confidentiality to the extent confidentiality is permitted by law. Campaign kick-offs, recognition events, trainings, meetings, awards and other nonsolicitation events to build support for the CFD are encouraged. CFD fund-raising events, such as raffles (as permitted by RCW 9.46.0209 and 42.52.805), drawings, auctions, bake sales, carnivals, athletic events, or other activities not specifically provided for in these rules are permitted when approved, in advance, by the ~~((state))~~ participating employer. At the discretion of each ~~((state))~~ participating employer, state employees or higher education employees may be authorized to attend CFD promotional and fund-raising events on state work time.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-170 Recovery of campaign expenses. The CFD ~~((will))~~ must recover its reasonable administrative expenses to conduct the CFD campaign either from state appropriations, or from the gross receipts of the CFD campaign ~~((or state appropriations, its reasonable administrative expenses to conduct the CFD campaign))~~ through an administrative fee assessed on participating organizations. The secretary of state ~~((will))~~ must approve an annual budget to determine the administrative fee to be charged to the beneficiaries of the CFD.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-180 Deduction of fund-raising expenses. Fund-raising expenses ~~((will))~~ must not be taken or deducted from donations collected during a fund-raising event. ~~((These))~~ Fund-raising expenses may be paid by the ~~((state agency or higher education institution))~~ participating employer and ~~((, then,))~~ upon request and submission of proper documentation, reimbursed by the CFD.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-190 Division of campaign expenses. The CFD campaign expenses ~~((will))~~ must be shared proportionately by all ~~((the))~~ participating ~~((not for profit))~~ organizations and federations reflecting their individual percentage share of gross CFD campaign receipts.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-200 Eligibility. ~~((Not for profit))~~ Participating organizations or federations must meet three requirements in order to ~~((be a member))~~ become a participating organization or federation with the CFD:

(1) Must have an approved federal ~~((IRS 501 (c)(3) or 170 (c)(1) status))~~ tax-exempt status under the Internal Revenue Code 26 U.S.C. Sec. 501 (c)(3) or Sec. 170 (c)(1);

(2) ~~((Must submit a CFD membership application; and (3))~~ Must be registered with the Washington state office of the secretary of state charities program. Registrations must be kept in an active status; and

(3) Must submit a CFD membership application.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-210 Organizations not eligible. If a ~~((not for profit))~~ participating organization or federation is determined not to be eligible by the secretary of state charities program, the CFD ~~((will))~~ must provide written notice ~~((of its determination, including a description of the determination made, the date and by whom it was made, the basis for the determination, and the procedure for requesting reconsideration))~~ to the participating organization or federation of this status and the steps needed to correct noneligibility.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-220 ~~((Reconsideration of noneligibility))~~ Reestablishment of eligibility. ~~((The following process will be used for requests for reconsideration of noneligibility:~~

(1) ~~Within fifteen calendar days after receiving notice of noneligibility, an affected organization or federation may submit a written request for reconsideration to the CFD. Requests for reconsideration and any supporting materials must be based solely on new or additional information that was not available to the CFD at the time the initial determination was made.~~

(2) ~~Within thirty calendar days of receiving the request for reconsideration, the CFD will issue a written decision. The CFD reconsideration decision is final.~~

(3) ~~The CFD may extend the time periods established in this section if it determines there is good cause to do so.~~

(4) ~~Any written requests or notices made under this section will be deemed received three business days after deposited in the United States mail, properly stamped and addressed.)~~ Requests for reestablishment of eligibility must be submitted by the participating organization or federation to the secretary of state charities program. The affected participating organization or federation must make any required changes by the requirements set forth for eligibility in WAC 434-750-200. The secretary of state charities program will notify the CFD if the participating organization or federation has been deemed eligible.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-230 Decertification or disqualification. Once approved for participation, any participating organization or federation may be decertified and disqualified from participation in the combined fund drive campaign by the CFD for one or more of the following reasons:

(1) Failing to comply with the rules contained in this chapter;

(2) Filing an application to participate in the ~~((state))~~ combined fund drive campaign which contains false or intentionally misleading information; ~~((or))~~

(3) ~~((Receiving less than two hundred dollars in total CFD contributions in a calendar year.))~~ Failing to deposit four disbursement payments within a year;

(4) Failing to comply with terms of CFD certification statements;

(5) Entering into receivership, filing for or being placed in bankruptcy, or being in the process of being dissolved; or

(6) Failing to follow the requirements set forth for eligibility in WAC 434-750-200.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-240 Notice of decertification decisions. The CFD ~~((will))~~ must provide written notice of the decertification decision, including a description of the determination made, ~~((the date and))~~ by whom it was made, the basis for the determination, and the procedure for requesting reconsideration.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-250 Decertification effective date. Decertification is effective ~~((on the first day of the quarter))~~ thirty calendar days following notice of decertification under WAC 434-750-240 ~~((Quarters begin on the first day of January, April, July, or October of each year))~~ unless the participating organization or federation complies with WAC 434-750-270. A decertified participating organization or federation is disqualified from participating in the CFD campaign as of that effective date.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-270 Reconsideration of decertification decisions. Requests for reconsideration of a decertification decision ~~((will be governed by the procedures set forth for reconsideration of eligibility in WAC 434-750-220))~~ must be submitted to the combined fund drive. The participating organization or federation must provide proof that material steps have been taken to correct the violation.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-290 Decertified contributions. The CFD (~~(will direct payments)~~) must work directly with its donors to determine where to direct donations originally pledged to (~~(an)~~) a participating organization or federation that has been deemed noneligible or decertified(~~(, is in receivership, has filed for or been placed in bankruptcy, or has been or is in the process of being dissolved, be returned to donors)~~). The CFD must provide the donor with options to disburse the pledged and collected donations to other participating organizations or federations or provide a refund of collected donations for the open quarter. If a donor does not respond to the CFD regarding redirecting donations, the CFD must issue a refund of all donations collected for the open quarter and cancel the donation. If the CFD determines it is not feasible to return such funds to donors, it (~~(will)~~) must determine the appropriate disposition of the funds.

AMENDATORY SECTION (Amending WSR 10-16-017, filed 7/22/10, effective 8/22/10)

WAC 434-750-300 Combined fund drive advisory council. The secretary of state may create a CFD advisory council to provide advice and guidance on matters pertaining to operating the CFD. The council (~~(will)~~) must consist of no more than ten members chosen by the secretary of state to represent a broad variety of charities, higher education institutions, and state agencies.

Members serve at the pleasure of the secretary. (~~(Terms are staggered, with the original board drawing for two and three year terms. All following terms are three years but all terms expire no later than when the appointing secretary leaves office.)~~) Vacancies may be filled by the secretary upon notice of a vacancy from the member. (~~(The council will elect a chairperson from its members annually. The frequency of meetings will be at least once a year but additional meetings may be called by the secretary or council.)~~) Council members are not compensated for their service, but may be reimbursed for expenses incurred in the conduct of their official duties. Reimbursement is at current state rates for travel and all reimbursement requests must be received within thirty days of incurring the expense.

NEW SECTION

WAC 434-750-310 Special campaigns and disbursements. The CFD is authorized to conduct special campaigns and disbursements for disaster relief or events with extraordinary circumstances as determined by the secretary of state.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-750-010 Purpose.

WAC 434-750-070 Responsibilities of CFD program manager.

WAC 434-750-160 Solicitation.

WSR 17-08-072
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed April 3, 2017, 3:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-24-080.

Title of Rule and Other Identifying Information: Amends WAC 181-79A-221, 181-79A-223, 181-79A-250 and 181-79A-2511, changes professional certificate requirements for school speech language pathologists, and provides renewal options for school counselors and removes professional requirements for counselors.

Hearing Location(s): The Hampton Inn, 486 Bradley Boulevard, Richland, WA 99352, on May 18, 2017, at 8:30.

Date of Intended Adoption: May 18, 2017.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, email david.brenna@k12.wa.us, fax (360) 586-4548, by May 11, 2017.

Assistance for Persons with Disabilities: Contact David Brenna by May 11, 2017, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes renewal options for professional certification requirements for school counselor[s] given anticipated action to make achieving professional status voluntary. Adds American speech-language-hearing association certification to options for obtaining and maintaining a speech-language pathology certificate.

Reasons Supporting Proposal: Clarifies requirements and reduces barriers to professionals in the field with education service associated certification.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, email david.brenna@k12.wa.us.

April 3, 2017
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 15-20-059, filed 10/1/15, effective 11/1/15)

WAC 181-79A-221 Academic and experience requirements for certification—School counselors and

school psychologists. Candidates for school counselor and school psychologist certification shall complete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-226: Provided, That it shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program. This examination shall be an examination of ~~((a regionally))~~ an accredited institution of higher education or the National Counselor Examination (NCE) of the National Board of Certified Counselors (NBCC) or, in the case of school psychologists, hold the NCSP accreditation from the National Association of School Psychologists (NASP): Provided, That if any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

(1) School counselor.

(a) Residency.

(i) ~~((The candidate shall))~~ Hold a master's degree with a major in counseling.

(ii) ~~((The candidate shall have successfully completed a comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II guidance and counseling examination.))~~ Completion of an approved school counselor program.

(b) Continuing.

(i) Hold or have held an initial or residency school counselor certificate, and have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by an accredited institution or one hundred fifty clock hours of study which meets the state continuing education clock hour criteria pursuant to chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. The study shall:

(A) Be based on the school counselor performance domains included in WAC 181-78A-270 (4)(a);

(B) Be taken subsequent to the issuance of the most recent initial or residency school counselor certificate.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the role of school counselor with an authorized employer—i.e., school district, educational service district, state agency, private school, or private school system—and at least thirty days of such employment with the same employer.

(c) Professional. A professional certificate ~~((ean))~~ may be earned ~~((in one of the following ways:~~

~~((i) An individual who has successfully completed an approved professional certificate program shall be deemed to meet the requirement for professional certification.~~

~~((ii))~~ by an individual who holds or has held a school counseling certificate issued by the National Board for Pro-

essional Teaching Standards (NBPTS) ~~((shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a school counselor))~~.

~~((e))~~ (d) Beginning with certificates first issued or renewed after July 1, 2015, continuing and professional certificates for school counselors include a requirement for suicide prevention training per RCW 28A.410.226.

(2) School psychologist.

(a) Residency.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) ~~((The candidate shall have successfully completed a comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II school psychology examination.))~~ Completion of an approved school psychology program.

(b) Continuing.

(i) ~~((The candidate shall hold a valid))~~ Hold or have held an initial or residency school psychologist certificate, a master's degree with a major or specialization in school psychology, and have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by ~~((a college or university with a state approved school psychologist program))~~ an accredited institution or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. The study shall:

(A) Be based on the school psychologist performance domains included in WAC 181-78A-270 (5)(a);

(B) Be taken subsequent to the issuance of the most recent initial or residency school psychologist certificate ~~((; and~~

~~((C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved school psychologist preparation program))~~.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the role of school psychologist with an authorized employer—i.e., school district, educational service district, state agency, ~~((college or university,))~~ private school, or private school system—and at least thirty days of such employment with the same employer.

(c) Professional. An individual who holds an NCSP certificate issued by the National Association of School Psychologists (NASP) shall be deemed to have met the requirement for professional certification ~~((; in recognition that NCSP certification is issued only to individuals who have demonstrated highly advanced skills as a school psychologist))~~.

(d) Beginning with certificates first issued or renewed after July 1, 2015, continuing and/or professional certificates for school psychologists include a requirement for suicide prevention training per RCW 28A.410.226.

AMENDATORY SECTION (Amending WSR 15-23-014, filed 11/6/15, effective 12/7/15)

WAC 181-79A-223 Academic and experience requirements for certification—School nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist, and school social worker. Candidates for school nurse, school occupational therapist, school physical therapist and school speech-language pathologist or audiologist and school social worker certification shall apply directly to the professional certification office. Such candidates shall complete the following requirements, in addition to those set forth in WAC 181-79A-150, except state approved college/university professional preparation program. Provided, that it shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program: Provided, That if any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

(1) School nurse.

(a) Initial.

(i) The candidate shall hold a valid license as a registered nurse (RN) in Washington state.

(ii) The candidate shall hold a baccalaureate degree or higher in nursing from a program accredited by the National League for Nursing Accrediting Commission or the Commission on Collegiate Nursing Education.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a tempo-

rary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school nurse and have completed forty-five quarter hours (thirty semester hours) of postbaccalaureate course work in education, nursing, or other health sciences.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(2) School occupational therapist.

(a) Initial.

(i) The candidate shall hold a valid license as an occupational therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Occupational Therapy Association approved program in occupational therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the

required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school occupational therapist and have completed at least fifteen quarter hours (ten semester hours) of course work beyond the baccalaureate degree in occupational therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(3) School physical therapist.

(a) Initial.

(i) The candidate shall hold a valid license as a physical therapist in Washington state.

(ii) The candidate shall hold a baccalaureate (or higher) degree from an American Physical Therapy Association accredited program in physical therapy.

(iii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following course outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school physical therapist and have completed fifteen quarter hours (ten semester hours) of

course work beyond the baccalaureate degree in physical therapy, other health sciences or education.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(4) School speech-language pathologist or audiologist.

(a) Initial.

(i) The candidate shall have completed all course work (except special project or thesis) for a master's degree from a college or university program accredited by the American Speech and Hearing Association (ASHA) with a major in speech pathology or audiology. Such program shall include satisfactory completion of a written comprehensive examination: Provided, That if any candidate has not completed a written comprehensive examination, the candidate may present verification from ASHA of a passing score on the National Teacher's Examination in speech pathology or audiology as a condition for certification.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall hold a master's degree with a major in speech pathology or audiology.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(iii) Candidates that can demonstrate the successful completion of the national American Speech-Language-Hearing Association (ASHA) certificate in addition to the education and employment experience.

(5) School social worker.

(a) Initial.

(i) The candidate shall hold an MSW from a regionally accredited institution of higher learning.

(ii) The candidate shall successfully complete thirty clock hours or three quarter hours (two semester hours) of course work approved by the professional educator standards board which will consist of the following outcomes in which candidates will:

(A) Demonstrate an understanding of school and special education laws and policies (national, state, and local) and their application to decision-making processes in the educational setting;

(B) Understand and demonstrate knowledge of working within the culture of the schools, creating an environment that fosters safety, health, and learning for the students;

(C) Demonstrate knowledge of appropriate resources in the school setting;

(D) Demonstrate knowledge of collaboration with team members which may include parents, teachers, administrators, and others to support learning outcomes for all students;

(E) Demonstrate knowledge of how to support the outcomes for all students through strategies such as scientifically based practices, collaborative teaming, and ethical decision making;

(F) Use professional standards to inform professional growth planning;

(G) Demonstrate an understanding of the use of human, community, and technological resources. Provided, that an individual who meets all other requirements but who has not completed the required course work shall be issued a temporary permit valid for one year, unless prior to the expiration date the superintendent of public instruction determines the applicant is ineligible to receive a valid certificate or endorsement, which will allow the individual to practice in the role. The candidate shall verify to OSPI the completion of the required course work during the one hundred eighty-day period.

(b) Continuing.

(i) The candidate shall have completed the requirements for the initial certificate as a school social worker and have completed an annual professional growth plan or fifteen quarter hours or one hundred fifty clock hours specific to the role of the school social worker since earning the initial certificate.

(ii) The candidate shall provide documentation of one hundred eighty days of full-time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency,

college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

(6) Beginning with continuing certificates first issued after July 1, 2015, continuing certificates for school nurses and school social workers include a requirement for suicide prevention training per RCW 28A.410.226 and again every five years after receiving the continuing certificate.

(7) The professional educator standards board will review courses for approval and reapproval/disapproval per the posted schedule. All providers of the initial ESA course must maintain current approval status to offer the course.

AMENDATORY SECTION (Amending WSR 11-15-051, filed 7/15/11, effective 8/15/11)

WAC 181-79A-250 Initial and continuing certificates—Renewal, reinstatement, and continuing education requirements. The following shall apply to initial and continuing certificates issued pursuant to this chapter:

(1) Initial certificate.

(a) Teachers.

An initial teacher certificate may be renewed for an additional three-year period on application and verification that the individual has completed all course work requirements from a regionally accredited institution of higher education as defined in WAC 181-78A-010(6) for continuing certification or has completed at least fifteen quarter credit hours (ten semester credit hours) since the certificate was issued or renewed. After August 31, 2000, provisions of WAC 181-79A-123 will apply.

(b) Administrators.

After June 30, 2004, provisions of WAC 181-79A-123(8) will apply.

(c) Educational staff associates.

After June 30, 2005, provisions of WAC 181-79A-123(9) will apply to school psychologists and school counselors.

(2) Continuing certificate.

(a) The continuing certificates of holders who were eligible for such certificates prior to August 31, 1987, and who applied for such certificates prior to July 1, 1988, or who would have been eligible for such certificates prior to August 31, 1987, but for one of the three-year experience requirement and who complete such requirement and apply for such certificate prior to August 31, 1988, will be valid for life. Holders of valid continuing certificates affected by this subsection shall be entitled to have such certificate reissued and subject to the terms and conditions applicable to certification at the time of reissuance including the continuing education requirements of chapter 181-85 WAC.

(b) All continuing certificates not affected by the exception stated in (a) of this subsection shall expire if the holder does not complete the continuing education requirement(=) to include the filing requirement specified in chapter 181-85 WAC, or has kept the national American Speech-Language-Hearing Association certificate up to date. To reinstate such an expired continuing certificate the individual must complete the requirements for reinstatement stated within chapter 181-85 WAC and must meet the conditions stated in WAC 181-79A-253.

AMENDATORY SECTION (Amending WSR 15-20-059, filed 10/1/15, effective 11/1/15)

WAC 181-79A-2511 School counselor residency and professional certification—Renewal and reinstatement.

(1) School counselors may renew their residency certificate in one of the following ways:

(a) Individuals who hold a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 181-78A-535(3) may have the residency certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(b) An individual school counselor who completes or intends to complete a National Board of Professional Teaching Standards (NBPTS) school counselor assessment but does not earn National Board Certification may use that completed assessment, or an affidavit of intention to complete, in order to renew the residency certificate one time for two years.

(c) Individuals who hold, or have held, a residency certificate who are not in the role of school counselor may have their residency certificates renewed for an additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education hours, directly related to the current performance-based standards as defined in WAC 181-78A-270(4) since the issuance of the residency certificate.

(d) A three-year renewal is available until June 30, 2020, for individuals who have held or hold a school counselor residency certificate that expires prior to July 1, 2019.

(2) Professional.

(a) For certificates issued under rules in effect prior to September 1, 2014, a valid professional certificate may be renewed for additional five-year periods by:

(i) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-270(4); or

(ii) Completion of four professional growth plans that are developed annually since the certificate was issued.

(b) Beginning September 1, 2014, a valid professional certificate may be renewed for additional five-year periods for individuals in the role of a school counselor by completion of four professional growth plans developed annually since the certificate was issued.

(c) Renewal of the professional certificate.

(i) Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(ii) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2).

(iii) Provided, That a school counselor professional certificate may be renewed based on the possession of a valid school counselor certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(iv) Provided, any educator holding a professional certificate which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans as required by this chapter. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application: Provided, That this section is no longer in effect after June 30, 2020.

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

(vi) The one-time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

(vii) After July 1, 2015, professional certificates for school counselors, in addition to the requirements in this chapter, must attend professional educator standards board approved training in suicide prevention as per RCW 28A.410.226 for renewal of their certificate.

(d) Individuals not in the role of a school counselor may have their professional certificate renewed for an additional five-year period by:

(i) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 181-78A-540(2) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(ii) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(2); or

(iii) Completion of four annual professional growth plans developed since the certificate was issued.

WSR 17-08-073
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed April 3, 2017, 3:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-06-105.

Title of Rule and Other Identifying Information: Repeals WAC 181-78A-507, 181-78A-509, 181-78A-510 and 181-78A-540 removing professional certification programs from requirements for administrators/principals and school counselors.

Hearing Location(s): The Hampton Inn, 486 Bradley Boulevard, Richland, WA 99352, on May 18, 2017, at 8:30.

Date of Intended Adoption: May 18, 2017.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, email david.brenna@k12.wa.us, fax (360) 586-4548, by May 11, 2017.

Assistance for Persons with Disabilities: Contact David Brenna by May 11, 2017, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Eliminates rule governing profession [professional] programs for administrators and school counselors.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, email david.brenna@k12.wa.us.

April 3, 2017
David Brenna
Senior Policy Analyst

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|-----------------|--|
| WAC 181-78A-507 | Overview—Principal/program administrator professional certificate programs. |
| WAC 181-78A-509 | Overview—Educational staff associate—School counselor/school psychologist professional certificate programs. |

WAC 181-78A-510	Responsibilities of the professional certificate administrator.
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WAC 181-78A-540	Approval standard—Knowledge and skills.
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WSR 17-08-074
PROPOSED RULES
COMMUNITY COLLEGES
OF SPOKANE

[Filed April 3, 2017, 3:14 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-03-106.

Title of Rule and Other Identifying Information: Amend chapter 132Q-10 WAC, Standards of conduct for students.

Hearing Location(s): Community Colleges of Spokane (CCS) Board of Trustees Meeting, The Lodge Building, 3305 West Fort George Wright Drive, Spokane, WA, on May 16, 2017, at 8:30 a.m.

Date of Intended Adoption: May 16, 2017.

Submit Written Comments to: John O'Rourke, CCS, Mailstop 1006, P.O. Box 6000, Spokane, WA 99217-6000, email john.orourke@ccs.spokane.edu, fax (509) 434-5185, by May 9, 2017.

Assistance for Persons with Disabilities: Contact John O'Rourke by May 9, 2017, (509) 434-5275.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: On December 1, 2016, the court of appeals of the state of Washington Division III filed an opinion regarding full adjudicative proceedings required by the Washington Administrative Procedure Act, chapter 34.05 RCW (APA) in the *Arishi v. Washington State University* case (No. 33306-0-III), 196 Wn. App. 878 (Div. 3); 385 P.3d 251.

CCS currently provides a full adjudicative process in situations where a student is alleged to have violated the standards of conduct for students and discipline of more than ten instructional days or dismissal/expulsion might be a result and also for all allegations of student sexual misconduct; however, CCS will provide additional clarification regarding the adjudicative process and incorporate language from the APA and model rules of procedure (chapter 10-08 WAC) in its standards of conduct WAC. These changes will ensure appropriate due process for students. Further clarification regarding the equal rights of a complainant in sexually violent conduct complaints will also be added for compliance with Title IX guidance from the United States Department of Education's Office for Civil Rights.

CCS proposes to amend WAC 132Q-10-310 Disposition of misconduct complaints by the student conduct officer, 132Q-10-315 Notice to the accused student of complaint, 132Q-10-318 Student conduct officer disciplinary proceedings, 132Q-10-320 Interim suspension and other sanctions, 132Q-10-325 Student conduct board proceedings, 132Q-10-330 Student conduct board decision and notification, 132Q-10-332 Student conduct administrative panel proceedings, 132Q-10-501 Additional procedural requirements for sexu-

ally violent conduct matters, 132Q-10-502 Supplemental procedures for allegations of sexually violent conduct, and 132Q-10-503 Supplemental appeal rights for alleged sexually violent conduct.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 28B.50.140.

Statute Being Implemented: RCW 28B.50.140.

Rule is necessary because of federal law and state court decision, *Arishi v. Washington State University* (No. 33306-0-III).

Name of Proponent: CCS, governmental.

Name of Agency Personnel Responsible for Drafting: Amy McCoy, 2917 West Fort George Wright Drive, Mail-stop 3027, Spokane, WA 99224, (509) 279-6246; Implementation and Enforcement: CCS, 501 North Riverpoint Boulevard, Suite 204, Spokane, WA 99202, (509) 434-5185.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for these college rules under RCW 19.85.030.

A cost-benefit analysis is not required under RCW 34.05.328. CCS is not a listed agency under RCW 34.05.328 and is therefore exempt from this provision.

April 3, 2017

John O'Rourke

Grant and Contract Manager

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-310 Disposition of misconduct complaints by the student conduct officer. If a student conduct officer determines a complaint of general misconduct may have merit, the student conduct officer will schedule an initial meeting with the student to discuss the content of the complaint, the range of potential sanctions, and the applicable CCS code of conduct hearing procedures.

(1) If the student fails to appear for the meeting and the range of sanctions for the alleged general misconduct do not include a suspension in excess of ten instructional days or a dismissal, the matter will be heard as a brief adjudicative proceeding and the student conduct officer may:

(a) Retain the matter for a brief adjudicative proceeding, determination of findings, conclusions, and sanctions; or

(b) Send the matter to the student conduct board for a brief adjudicative proceeding ~~((and))~~ in accordance with the provisions of this code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC) including a determination of findings, conclusions, and sanctions.

(2) If an agreed upon resolution cannot be reached or if the student fails to appear for the meeting and the range of sanctions for the alleged general misconduct include a suspension in excess of ten instructional days or a dismissal, the student conduct officer will send the matter to the student conduct administrative panel for a full adjudicative proceeding in accordance with the provisions of this code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC) including a hearing, determination of findings, conclusions, and sanc-

tions. To the extent there is a conflict between the standards of conduct for students and the model rules, this standards of conduct for students code shall prevail.

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-315 Notice to the accused student of complaint. (1) All general misconduct and sexual misconduct complaints deemed by the chief student service officer/Title IX coordinator or student conduct officer to have merit are presented by the student conduct officer to the accused student in written form, in person, by regular mail or electronic mail. Notice by mail is sent to the student's last known local address. If the student no longer is enrolled at the time notice is sent, the notice is sent to the student's permanent address. The student is responsible for providing and keeping the college updated of his/her current ~~((address))~~ email and mailing addresses.

(2) The written notice shall include:

(a) The official name and reference number of the proceeding and notice that the hearing is to be held pursuant to these standards of conduct for students under the jurisdiction provided by WAC 132Q-10-120.

(b) The factual details of the complaint, the policy, procedure, rule or standard of conduct allegedly violated.

~~((b))~~ (c) The approximate time and place of the alleged act.

~~((e))~~ (d) The range of possible sanctions for the alleged act.

~~((d))~~ (e) The date, time, and place of the proceeding. A time for the disciplinary proceeding is set seven to ~~((ten instructional))~~ fourteen calendar days after the student has been notified unless waived by all parties. If the chair of the student conduct board, the chair of the student administrative panel or the accused student wish to alter the notice requirements, he/she must submit a written request to the student conduct officer. Time limits for notice may be shortened by the student conduct officer if the parties to the proceeding agree and also may be continued to a later time for good cause.

~~((e))~~ (f) Notification as to whether the student conduct officer, the student conduct board or the student administrative panel was assigned the case and the names, mailing address, and phone number of the designated presiding officer(s).

(g) Notification as to the mailing address and phone number of the office intended to represent the college in the proceeding.

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-318 Student conduct officer disciplinary proceedings. Brief adjudicative disciplinary proceedings with the student conduct officer are conducted as follows:

(1) Meetings will not be conducted in public.

(2) Admission of any other person to the hearing is at the discretion of the student conduct officer.

(3) Respondents have the right to be assisted by an advisor they choose, at their own expense. The respondents are responsible for presenting their own information. Advisors are not permitted to address the student conduct officer or participate directly in the meeting. An advisor may communicate only with the person they are advising. The student conduct officer may call recesses to facilitate this communication. A respondent should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing. Delays are not normally allowed due to the scheduling conflicts of an advisor.

(4) The respondent may provide sworn written statements from witnesses and other documents or information that he/she believes is relevant to the case. Forms for the written statements are available from the student conduct officer or online.

(5) The student conduct officer determines which records, exhibits and written statements may be accepted as information for consideration.

(6) There is a single verbatim record, such as a recording or transcript, of the information gathering portion of hearings. The record is the property of the college.

(7) If the student does not appear for the hearing after proper notice has been provided, the student conduct officer will consider the complaint, absent the student, and enter a decision regarding the complaint including appropriate disciplinary sanctions.

(8) The student conduct officer will notify the student in writing, in person, by mail or electronic mail of his or her decision. Notice of the decision is sent within ten (~~instructional~~) calendar days from the hearing date. If the college is not in session, this period may be reasonably extended.

(9) The written notice of the decision will include the reasons for the decision, the sanctions, and information about the appeal process. The student conduct officer may notify the student prior to receipt of the formal written notice. The notice is sent to the student's last known mailing address or email address.

(10) The burden of proof that guides the student conduct officer's decision is a preponderance of evidence, which is whether it is more likely than not the accused student violated the standards of conduct for students. The student conduct officer includes in his/her written notice of the decision the findings and conclusions of all material issues of law, including which, if any, provision of the standards of conduct for students were violated. Findings based substantially on the credibility of evidence shall be so identified.

(11) The student conduct officer may take any of the following actions:

- (a) Terminate the proceeding, exonerating the student;
- (b) Dismiss the case after providing appropriate counseling and admonishment to the student. Such action is final and is not subject to review on appeal;
- (c) Issue a verbal warning to the student directly. Such action is final and is not subject to review on appeal;
- (d) Impose sanctions provided for in WAC 132Q-10-400 such as probation, loss of privileges, restitution or compensation, fines, college suspension of ten instructional days or less, and revocation of admission. Such actions are subject to review on appeal as provided in this chapter;

(e) Refer the matter directly to the student conduct board or the student conduct administrative panel for such action as the panel deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct board or the chair of the student conduct administrative panel, with a copy served on the accused student.

(12) A referral to the student conduct board may be used in instances where the alleged misconduct is novel or controversial and the student conduct officer believes input from the larger campus community would be beneficial. A referral to the student administrative panel should be used in instances where new evidence comes forth suggesting that discipline of more than ten instructional days or dismissal/expulsion is appropriate or new evidence comes forth suggesting evidence of sexual misconduct. It may also be warranted when the immediate alleged misconduct, by itself, is not severe enough to warrant an expulsion or suspension in excess of ten instructional days, but may trigger a deferred suspension or expulsion that was imposed during an earlier disciplinary proceeding.

(13) The written decision is the college's initial order. Appeals are governed by WAC 132Q-10-335. A referral of a matter directly to the student conduct board or to the administrative panel does not constitute a written decision.

(14) If the respondent does not appeal the student conduct officer's decision within twenty calendar days from the date of the decision, it becomes the college's final order after twenty-one calendar days.

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-320 Interim suspension and other ~~((sanctions))~~ restrictions. (1) In certain circumstances, the chief student services officer/Title IX coordinator, or his/her designee may impose an interim suspension from college or other ~~((sanctions))~~ restrictions prior to the proceedings ~~((with the student conduct officer))~~ being conducted pursuant to WAC 132Q-10-310 or being conducted pursuant to WAC 132Q-10-502. Interim suspension or other ~~((sanctions))~~ restrictions may be imposed only if there is reasonable cause to believe that the accused student:

- (a) Has violated a provision of the standards of conduct for students;
- (b) In situations involving an immediate danger to the health, safety, or welfare of members of CCS or the public at large;
- (c) To ensure the student's own physical safety and well-being; or
- (d) If the student poses an ongoing threat of disruption to, or interference with, the operations of the college.

(2) During the interim period, a student may be denied access to classes, activities and privileges, as the student conduct officer determines while an investigation and/or formal disciplinary procedures are pending.

(3) Notice.

(a) Any student who has been suspended on an interim basis based on general misconduct or sexual misconduct under these standards of conduct for students shall be served with written notice or oral notice of the ~~((summary))~~ interim

suspension by the chief student services officer/Title IX coordinator, or his/her designee. If oral notice is given, a written notification shall be provided to the student within two business days of the oral notice in person, by regular mail or electronic mail. Written notice by mail is sent to the student's last known address. ((If the student no longer is enrolled at the time notice is sent, the notice is sent to the student's permanent address.)) The student is responsible for providing the college the current address.

(b) The notice shall be entitled "Notice of ~~((Summary))~~ Interim Suspension" and shall include the reasons for imposing the interim suspension, including reference to the provisions of the standards of conduct for students that have been allegedly violated, the date, time and location where student must appear for a hearing on the interim suspension; and the conditions, if any, under which the student may physically access the campus or communicate with members of the campus community.

(4) The student conduct officer shall conduct a hearing on the ~~((summary))~~ interim suspension as soon as practicable after imposition of the ~~((summary))~~ interim suspension. If the student has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the accused student shall be considered trespassing and subject to arrest for criminal trespass if the accused student enters the college campus other than to meet with the student conduct officer, or to attend a disciplinary hearing. The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension. A full hearing before the student conduct officer, the student conduct board or the student conduct administrative panel may be convened in a timely manner which may negate the need for an interim suspension hearing.

~~((4))~~ (5) In the event the alleged misconduct which is the basis for interim suspension involves claims of sexually violent conduct, both the accused student and the complainant shall be notified of the interim suspension. Please refer to WAC 132Q-10-501 and 132Q-10-502 which outline additional and supplemental procedural requirements for sexually violent conduct allegations and matters. In no event shall mediation be used to resolve complaints involving allegation of sexual violence.

(6) The issue before the student conduct officer during the interim suspension hearing is whether there is probable cause to believe that interim suspension is necessary and/or whether other less ~~((restrictive))~~ severe interim ~~((disciplinary action is))~~ restrictions are appropriate. For the purpose of this section, probable cause means sufficient facts to lead a reasonable person to believe that the elements necessary for imposing ~~((a summary))~~ an interim suspension have been satisfied. The student shall be given an opportunity to explain why ~~((summary))~~ interim suspension is or is not necessary either through oral ~~((testimony))~~ or written statement or a combination of oral and written statements.

~~((5))~~ (7) If the notice of ~~((summary))~~ interim suspension proceedings has been served upon the accused student in accordance with these rules and the student fails to appear at the designated hearing time, the student conduct officer may

order that the ~~((summary))~~ interim suspension remain in place pending imposition of final disciplinary action.

~~((6))~~ (8) The student conduct officer shall issue a written order within two instructional days of the hearing, which shall include a brief statement of findings of fact and conclusions ~~((of law))~~, the policy reasons justifying imposition of the ~~((summary))~~ interim suspension, and setting forth the student conduct officer's decision in the matter. If the ~~((summary))~~ interim suspension is upheld and/or other ~~((discipline))~~ restrictions are imposed, the order shall inform the student of the duration of the ~~((summary))~~ interim suspension or the nature of the ~~((disciplinary action(s)))~~ restrictions, conditions under which the ~~((summary))~~ interim suspension may be terminated or modified, and procedures by which the order may be appealed.

~~((7))~~ (9) To the extent permissible under law, the student conduct officer shall provide a copy of the order to all persons or offices that may be bound or protected by it including the complainant.

~~((8))~~ The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension. If a full hearing before the student conduct officer, the student conduct board or the student conduct administrative panel can be convened in a timely manner, the hearing on the interim suspension can be consolidated with the hearing on the merits.)

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-325 Student conduct board proceedings. In cases in which the student conduct officer determines to refer a matter directly to the student conduct board for a hearing, the following procedures apply:

(1) The student conduct officer shall serve all parties, and student conduct board members with written notice of the hearing seven to ten calendar days prior to the hearing date, time and location, as further specified in RCW 34.05.-434 and WAC 10-08-040 and 10-08-045. The student conduct officer may shorten this notice period if all parties agree, and also may continue the hearing to a later time for good cause.

(2) The student conduct officer is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and forms of any discovery, issuance of protective orders, and similar procedural matters.

(3) The student conduct officer shall provide assistance to parties, upon request, in obtaining relevant and admissible evidence that is within the college's control.

(4) The student conduct officer may provide to the board members in advance of the hearing copies of: (a) The student conduct officer's notice of complaint and referral; and (b) any documents provided in response by the accused student. If doing so, however, the student conduct officer should remind the committee members that these documents are not evidence of any facts they may allege.

(5) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited, and

any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(6) Hearings are ordinarily closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(7) The complainant, the accused student, and their respective advisors may attend the portion of the hearing at which information is received, but may not attend the board's deliberations. Admission of any other person to the hearing is at the discretion of the student conduct board chair.

(8) In circumstances involving more than one accused student, the student conduct officer may permit joint or separate hearings.

(9) The accused student has the right to be assisted by an advisor they choose, at their own expense. The accused student is responsible for presenting his/her own information. Advisors are not permitted to address the board or participate directly in the hearing. An advisor may communicate only with the person they are advising. The board chair may call recesses to facilitate this communication. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the hearing. Delays are not normally allowed due to the scheduling conflicts of an advisor.

(10) The accused student, the student conduct officer, and the board chair may arrange for witnesses to present pertinent information to the student conduct board. Witnesses may provide written statements in lieu of their attendance at the hearing. The accused student is responsible for informing his/her witnesses of the time and place of the hearing. Witnesses provide information to, and answer questions from, the student conduct board. To preserve the educational tone of the hearing and to avoid an adversarial environment, questions are directed to the chair, rather than to the witness directly. Questions concerning whether potential information may be received are resolved by the chair. The record will reflect the questions that were submitted and the rationale for disallowing any questions. All testimony and written statements shall be given under oath or affirmation.

(11) The board chair determines which records, exhibits and written statements may be accepted as information for consideration by the board, except as overridden by majority vote of the board.

(12) Formal rules of process, procedure and technical rules of evidence, such as are applied in criminal or civil court, are not used in board proceedings.

(13) Questions related to the order of the proceedings are determined by the board chair.

(14) If an accused student, with notice, does not appear before a student conduct board hearing, the information in support of the complaint is presented and considered in the absence of the accused student.

(15) The board chair shall cause the hearing to be recorded by a method that he/she selects in accordance with RCW 34.05.449. Board deliberations are not recorded. The record or transcript is the property of the college. That recording, transcript or a copy, shall be made available to the

parties upon request. The board chair shall ensure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by the respondent. Other recording shall also be permitted in accordance with WAC 10-08-190.

(16) The board chair may accommodate concerns for the personal safety, well-being or fears of confrontation during the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means.

(17) The student conduct officer (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

(18) At the conclusion of the hearing, the board shall permit the parties to make closing arguments in whatever form it wishes to receive them. The board may also permit each party to propose findings, conclusions, and/or an order for its consideration.

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-330 Student conduct board decision and notification. Procedures for student conduct board proceedings:

(1) At the conclusion of the hearings on conduct matters, including closing arguments and deliberations, the student conduct board determines by majority vote whether the accused student has violated the standards of conduct for students. If so, the board determines and imposes the appropriate sanctions from WAC 132Q-10-400.

(2) The burden of proof that guides the board's decision is the preponderance of evidence, whether it is more likely than not that the accused student violated the standards of conduct for students.

(3) The student conduct officer notifies the parties, in writing, in person, by mail or electronic mail of the board's decision. Written notice is sent within ten (~~instructional~~) calendar days from the hearing date. If the college is not in session, this period may be reasonably extended. The student conduct board includes in the written notice of the decision the findings and conclusions on all material issues of law, including which, if any, provisions of the (~~student conduct code~~) standards of conduct for students were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified, the disciplinary sanctions, and information about the appeal process. The board's initial order shall also include a determination on appropriate discipline, if any. The student conduct officer may notify the student prior to receipt of the formal written notice. The notice, if sent by mail, is sent to the student's last known address.

(4) The written decision is the college's initial order. Appeals are governed by WAC 132Q-10-335.

(5) If the student does not appeal the board's decision within twenty calendar days from the date of the decision, it becomes the college's final order after twenty-one calendar days.

(6) The committee chair shall promptly transmit a copy of the order and the record of the board's proceedings to the appeals board.

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-332 Student conduct administrative panel proceedings. ~~((In cases in which the student conduct officer refers a matter to the student conduct administrative panel for a hearing,))~~ The student conduct administrative panel will conduct full adjudicative proceeding in accordance with the provisions of this standards of conduct for students code, the Administrative Procedure Act (chapter 34.05 RCW), and the model rules of procedure (chapter 10-08 WAC) including a hearing, determination of findings, conclusions, and sanctions. To the extent there is a conflict between the standards of conduct for students and the model rules, this standards of conduct for students code shall prevail. The following procedures apply:

(1) The student conduct officer shall serve all parties, and student conduct administrative panel members with written notice of the hearing not less than seven calendar days or more than ten calendar days prior to the hearing date, time and location, as further specified in RCW 34.05.434 and WAC 10-08-040 and 10-08-045. The student conduct officer may shorten this notice period if all parties agree, and also may continue the hearing to a later time for good cause.

(2) The student conduct administrative panel chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(3) Upon written request filed at least five calendar days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third calendar day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(4) The student conduct officer may provide to the panel members in advance of the hearing copies of: (a) The student conduct officers' notice of complaint and referral; and (b) documents provided by the accused student in response to the complaint. If doing so, however, the chair should remind the panel members that these documents are not evidence of any facts they may allege.

~~((3))~~ (5) Communications between panel members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

~~((4))~~ (6) An accused student may elect to be represented by an attorney at his or her own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with both the panel chair

with a copy to the student conduct officer. The panel may be advised by an assistant attorney general. If the respondent is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general.

~~((5))~~ (7) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the panel chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the panel chair may exclude that person from the hearing room.

~~((6))~~ (8) In circumstances involving more than one accused student, the student conduct officer may permit joint or separate hearings.

~~((7))~~ (9) The president of the college or his/her designee, the chair of the student conduct administrative panel, the administrators assigned to the student conduct administrative panel, deans, and/or the student conduct officer have the authority to issue subpoenas.

(10) The accused student and the student conduct officer may arrange for witnesses to present pertinent information to the student conduct administrative panel. The accused student is responsible for informing his/her witnesses of the time and place of the hearing ~~((Questions concerning whether potential information may be received are resolved by the panel chair. All testimony and written statements shall be given under oath or affirmation))~~.

~~((8))~~ (11) The student conduct officer, upon written request, will provide reasonable assistance to the accused student in obtaining relevant and admissible evidence that is within the college's control.

(12) All testimony and written statements shall be given under oath or affirmation.

(13) The panel chair determines which records, exhibits and written statements may be accepted as information for consideration by the panel consistent with RCW 34.05.452. Evidence, including hearsay evidence, is admissible if it is the kind of evidence on which reasonably prudent persons are accustomed to rely on in the conduct of their affairs. Evidence is not admissible if it is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The panel chair may exclude evidence that is irrelevant, immaterial or unduly repetitious. The panel chair will ensure that the hearing record reflects the basis for exclusion of any evidence.

(14) The chair of the student conduct administrative panel shall decide all procedural questions and make rulings on the admissibility of evidence, motions, objections, and on challenges to the impartiality of board members, unless a hearing examiner is appointed as provided below. The Washington rules of evidence shall serve as guidelines for those rulings on the admissibility of evidence.

~~((9))~~ (15) Questions related to the order of the proceedings are also determined by the student conduct administrative panel chair.

~~((10))~~ (16) If an accused student, with notice, does not appear before a student conduct administrative panel hearing, the information in support of the complaint is presented and considered in the absence of the accused student.

~~((11))~~ (17) The panel chair may accommodate concerns for the personal safety, well-being or fears of confrontation during the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means. In making such accommodations, the rights of the other parties must not be prejudiced and must have the opportunity to participate effectively in, to hear, and, if technically economically feasible, to see the entire proceeding while it is taking place.

~~((12))~~ (18) The panel chair shall cause the hearing to be recorded by a method that he/she selects in accordance with RCW 34.05.449. Panel deliberations are not recorded. The record or transcript is the property of the college. That recording, transcript or a copy, shall be made available to the parties upon request. The panel chair shall ensure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by the respondent. Other recording shall also be permitted in accordance with WAC 10-08-190.

~~((13))~~ (19) The student conduct officer (unless represented by an assistant attorney general) shall present the case for disciplinary action. The facts justifying any such action must be established by a preponderance of the evidence.

~~((14))~~ (20) At the conclusion of the hearing, the panel shall permit the parties to make closing arguments in whatever form it wishes to receive them. The panel may also permit each party to propose findings, conclusions, and/or an order for its consideration.

~~((15))~~ (21) Conduct matters that involve allegations of sexually violent conduct as defined in WAC 132Q-10-105(18) and further detailed in WAC 132Q-10-244 shall also utilize the supplemental hearing procedures of WAC 132Q-10-501 through 132Q-10-503. The terms of the supplemental procedures will prevail in the event of any discrepancy between this provision and the provisions of the supplemental procedures.

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-501 Additional procedural requirements for sexually violent conduct matters. In the event the alleged misconduct involves claims of sexually violent conduct, additional procedures are required by federal law. Both the accused student and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the interim suspension process and disciplinary proceeding process and to appeal the chief student services officer's or student conduct administrative panel's disciplinary order.

Application of the supplemental procedures for allegations of sexually violent conduct is limited to student conduct code proceedings involving allegations of sexually violent conduct. In such cases, these procedures shall supplement the student disciplinary procedures in WAC 132Q-10-305 through ~~((132Q-10-335))~~ 132Q-10-318 and 132Q-10-325 through 132Q-10-500. In the event of conflict between the supplemental sexually violent conduct procedures, interim

suspension and other restrictions procedures and the student disciplinary procedures, the sexually violent conduct procedures shall prevail.

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-502 Supplemental procedures for allegations of sexually violent conduct. (1) ~~((Complaints))~~ Reports of alleged sexually violent conduct by a student submitted pursuant to WAC 132Q-10-305(2) shall be referred to the Title IX coordinator for an initial assessment. If an investigation is deemed warranted it shall be completed in a timely manner as defined by administrative procedure 3.30.01.

(a) If after a review, the Title IX coordinator determines that the facts as alleged would not constitute a violation of Title IX, the Title IX coordinator may close the file.

(b) If after an initial review, the Title IX coordinator determines that the facts as alleged may constitute a violation of Title IX, the coordinator or his or her designee will ~~((conduct))~~ order an investigation.

(c) If after an initial review, the Title IX coordinator determines that the facts as alleged would not constitute a violation of Title IX, but may constitute a violation of other provisions of the standards of conduct for students ~~((conduct code))~~, the coordinator may refer the matter to the student conduct officer to review and process.

(d) If the Title IX coordinator determines an investigation is not warranted on a sexually violent conduct report, the student conduct officer will make reasonable efforts to meet with the complainant and accused student individually to discuss the outcome.

(e) If an investigation is conducted based on a sexually violent conduct ~~((complaint))~~ report, the Title IX coordinator will make a reasonable effort to meet with the complainant and accused student separately to discuss the results of the investigation and possible protective ~~((sanctions))~~ restrictions or conditions that may be imposed on the accused student. Please refer to WAC 132Q-10-503 for the appeal rights of both parties.

(2) Respondents may have interim restrictions placed on them as outlined in WAC 132Q-10-320.

(3) If the Title IX coordinator or his/her designee determines that the investigative report contains facts that demonstrate a violation of the standards of conduct for students, but not a violation of the sexually violent conduct provisions, then he/she will refer the matter to the appropriate student conduct officer for disciplinary proceedings under these regulations.

~~((3))~~ (4) Informal dispute resolution shall not be used to resolve sexual misconduct complaints ~~((without written permission from both the complainant and the accused student. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence))~~.

~~((4))~~ (5) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety and welfare of the complainant or other members of the col-

lege community or its legal duty to investigate and process sexual harassment and sexual violence complaints.

~~((5) Accused student and complainant shall have the right to be accompanied by a nonattorney assistant of their choosing during the appeal process.))~~ (6) The complainant and respondent have the same rights regarding advisors and witnesses as set forth in WAC 132Q-10-332. The complainant and respondent may choose to be represented at the hearing by an attorney at his or her own expense, but will be deemed to have waived that right unless, at least four business days before the hearing, he or she files a written notice of the attorney's identity and participation with the committee chair and copy the chief student services officer. The chief student services officer will provide a copy of the notice ((to the accused student)) of hearing to the complainant.

~~((6))~~ (7) The complainant may arrange for witnesses to present pertinent information to the student conduct administrative panel. The complainant is responsible for informing his/her witnesses of the time and place of the hearing.

(8) The student conduct officer, upon request, shall provide reasonable assistance to the complainant in obtaining relevant and admissible evidence that is within the college's control.

(9) During the proceedings, complainant and accused student shall not directly question or cross examine one another. All questions shall be directed to the chair, who will act as an intermediary and pose questions on the parties' behalf. The student conduct administrative panel chair may overrule certain questions on the basis that they are irrelevant, immaterial or unduly repetitious; seek information that is protected on constitutional or statutory grounds or seek information that is subject to evidentiary privilege as recognized in the courts of this state. The record will reflect the questions that were submitted and the rationale for disallowing any questions.

~~((7))~~ (10) Hearings involving sexual misconduct allegations shall be closed to the public, unless accused student and complainant both waive this requirement in writing and request that the hearing be open to the public. Complainant, accused student and their respective attorney representatives may attend portions of the hearing where argument, testimony and/or evidence are presented to the student conduct administrative panel.

~~((8))~~ (11) The chair of the student conduct administrative panel will coordinate with the chief student services officer/Title IX coordinator or his/her designee to serve complainant a written notice indicating that the complaint has been resolved on the same date that the discipline order is served upon the accused student. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any ~~((sanctions))~~ restrictions and/or conditions imposed upon the accused student for the complainant's protection, including suspension or dismissal of the accused student. The notice shall also provide directions on how the complainant can appeal the decision.

(12) The complainant has the right to appeal an order of the student conduct administrative panel consistent with WAC 132Q-10-335. In the event of an appeal by the accused student or complainant, the chief student services officer shall provide a copy of the appeal to the nonappealing party.

The complainant and accused student have the right to be assisted by an advisor of their choosing during the appeal process at their own expense.

AMENDATORY SECTION (Amending WSR 15-15-161, filed 7/21/15, effective 8/21/15)

WAC 132Q-10-503 Supplemental appeal rights for alleged sexually violent conduct. (1) The following actions by the chief student services officer/Title IX coordinator and the student conduct administrative panel may be appealed by the complainant:

(a) The dismissal of a sexually violent misconduct complaint; or

(b) The disciplinary sanction(s) and conditions imposed against an accused student for a sexually violent misconduct violation.

(2) Appeals:

(a) A discipline order which includes findings of sexually violent misconduct may be appealed by filing a written notice of appeal with the chief student services officer within twenty calendar days of receiving notice of the discipline order. The notice of appeal ~~((may))~~ must include a written statement setting forth the grounds of appeal and why the appeal should be granted.

(b) The dismissal of a sexually violent misconduct complaint by the Title IX coordinator may be appealed by filing a notice of appeal with the college president within twenty calendar days of receiving notice of the complaint dismissal. The notice of appeal must include a brief written statement explaining why the complainant or respondent is seeking review of the dismissal and why the appeal should be granted.

(3) Notice of appeal:

(a) If an order imposing discipline for a sexual misconduct violation is appealed, the college shall notify the nonappealing complainant/respondent of the appeal. The nonappealing complainant/respondent will be provided the option to be named as a party to the appeal.

(b) If the dismissal of a sexually violent misconduct complaint by the Title IX coordinator is appealed, the college shall notify the nonappealing complainant/respondent of the appeal. The nonappealing complainant/respondent will be provided the option to be named as a party to the appeal.

(4) A complainant/respondent who chooses to appeal a discipline order or who chooses to appear as a party to the appeal of a discipline order or the dismissal of a complaint shall be afforded the same procedural rights as are afforded to the other party.

(5) Review of appeals:

(a) Appeals of orders imposing discipline for a sexual misconduct violation shall be reviewed by the appeals board consistent with WAC 132Q-10-335 (5) through (6).

(b) Appeals of dismissal of complaints of sexual misconduct violation shall be reviewed by a college president. If the college president's decision is to affirm the dismissal of the original complaint that serves as the college's final order regarding the original complaint dismissal. If the college president determines that the dismissal should be reversed, the matter shall be investigated pursuant to WAC 132Q-10-

502. If the matter involves sexually violent misconduct, it will be investigated pursuant to WAC 132Q-10-502 and processed consistent with this chapter applicable to sexually violent misconduct. If the matter involves misconduct that does not include sexually violent misconduct, it will be processed consistent with the provisions of this chapter applicable to general misconduct.

(6) The chief student services officer/Title IX coordinator will serve complainant a written notice indicating that the appeal has been resolved on the same date that the final order is served upon the accused student. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any sanctions and/or conditions imposed upon the accused student for the complainant's protection, including suspension or dismissal of the accused student.

WSR 17-08-078
PROPOSED RULES
HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed April 4, 2017, 8:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-20-083.

Title of Rule and Other Identifying Information: New WAC 182-559-100 Foundational community supports program—General, 182-559-150 Foundational community supports program—Definitions, 182-559-200 Foundational community supports program—Eligible providers, 182-559-300 Foundational community supports program—Eligibility, 182-559-400 Foundational community supports program—Payment and 182-559-500 Foundational community supports program—Limitation of scope of benefits; and amending WAC 182-500-0070 Medical assistance definitions—M.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Pear Conference Room 107, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000, on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 10, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, email arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m., on May 9, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed by May 5, 2017, email amber.lougheed@hca.wa.gov, (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency drafted these rules to implement a newly funded foundational community supports program that includes benefits to clients for supportive housing and supported employment services.

The agency added a definition for "Medicaid transformation waiver" to WAC 182-500-0070.

Reasons Supporting Proposal: These rules are necessary to implement provisions under 2SSB 6312, section 9 (1)(i), chapter 225, Laws of 2014, 63rd legislature, 2014 regular session; and 2ESHB 2376, section 213 (1)(f) and (g), chapter 36, Laws of 2016, 65th legislature, 2016 1st sp. sess.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; 2SS [2SSB] 6312, section 9 (1)(i), chapter 225, Laws of 2014, 63rd legislature, 2014 regular session; and 2ESHB 2376, section 213 (1)(f) and (g), chapter 36, Laws of 2016, 65th legislature, 2016 1st sp. sess.

Statute Being Implemented: RCW 41.05.021, 41.05.160; 2SSB 6312, section 9 (1)(i), chapter 225, Laws of 2014, 63rd legislature, 2014 regular session; and 2ESHB 2376, section 213 (1)(f) and (g), chapter 36, Laws of 2016, 65th legislature, 2016 1st sp. sess.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1346; Implementation and Enforcement: Jon Brumbach, 826 8th Avenue S.E., Olympia, WA 98504, (360) 725-1535.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

April 4, 2017
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-06-109, filed 3/2/16, effective 4/2/16)

WAC 182-500-0070 Medical assistance definitions—M. "Medicaid" means the federal medical aid program under Title XIX of the Social Security Act that provides health care to eligible people.

"Medicaid agency" means the state agency that administers the medicaid program. The Washington state health care authority (HCA) is the state's medicaid agency.

"Medicaid transformation project" refers to the demonstration granted to the state by the federal government under section 1115 of the Social Security Act. Under this demonstration, the federal government allows the state to engage in a five-year demonstration to support health care systems, to implement reform, and to provide new targeted medicaid services to eligible clients with significant needs.

"Medical assistance" is the term the agency and its predecessors use to mean all federal or state-funded health care programs, or both, administered by the agency or its designees. Medical assistance programs are referred to as Washington apple health.

"Medical care services (MCS)" means the limited scope health care program financed by state funds for clients who are eligible for the aged, blind, or disabled (ABD) cash assistance (see WAC 388-400-0060) or the housing and essential needs (HEN) referral program (see WAC 388-400-0065) and not eligible for other full-scope programs due to their citizenship or immigration status.

"Medical consultant" means a physician employed by or contracted with the agency or the agency's designee.

"Medical facility" means a medical institution or clinic that provides health care services.

"Medical institution" See "institution" in WAC 182-500-0050.

"Medical services card" or "services card" means the card the agency issues at the initial approval of a person's Washington apple health benefit. The card identifies the person's name and medical services identification number but is not proof of eligibility. The card may be replaced upon request if it is lost or stolen, but is not required to access health care through Washington apple health.

"Medically necessary" is a term for describing requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent worsening of conditions in the client that endanger life, or cause suffering or pain, or result in an illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or mal-function. There is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the client requesting the service. For the purposes of this section, "course of treatment" may include mere observation or, where appropriate, no medical treatment at all.

"Medically needy (MN)" or "medically needy program (MNP)" means the state and federally funded health care program available to specific groups of people who would be eligible as categorically needy (CN), except their monthly income is above the CN standard. Some long-term care clients with income or resources above the CN standard may also qualify for MN.

"Medically needy income level (MNIL)" means the standard the agency uses to determine eligibility under the medically needy program. See WAC 182-519-0050.

"Medicare" is the federal government health insurance program under Titles II and XVIII of the Social Security Act. For additional information, see www.Medicare.gov.

"Medicare assignment" means the process by which a provider agrees to provide services to a medicare beneficiary and accept medicare's payment for the services.

"Medicare cost-sharing" means out-of-pocket medical expenses related to services provided by medicare. For clients enrolled in medicare, cost-sharing may include Part A and Part B premiums, co-insurance, deductibles, and copayments for medicare services. See chapter 182-517 WAC.

"Minimum essential coverage" means coverage under 26 U.S.C. Sec. 5000A(f).

"Modified adjusted gross income (MAGI)" means the adjusted gross income as determined by the Internal Revenue Service under the Internal Revenue Code of 1986 (IRC) increased by:

(1) Any amount excluded from gross income under 26 U.S.C. Sec. 911;

(2) Any amount of interest received or accrued by the client during the taxable year which is exempt from tax; and

(3) Any amount of Title II Social Security income or Tier 1 railroad retirement benefits excluded from gross income under 26 U.S.C. Sec. 86. See chapter 182-509 WAC for additional rules regarding MAGI.

Chapter 182-559 WAC

FOUNDATIONAL COMMUNITY SUPPORTS PROGRAM

NEW SECTION

WAC 182-559-100 Foundational community supports program—General. (1) Under the authority of the medicaid transformation project, RCW 71.24.385, and subject to available funds, the medicaid agency covers targeted foundational community supports to eligible medicaid beneficiaries, which include the following benefits:

(a) Supportive housing services; and

(b) Supported employment services.

(2) Supportive housing services may include:

(a) One-time community transition services to eligible clients moving from institutional to community settings and those who meet an institutional level of care, such as:

(i) Security deposits;

(ii) Essential furnishings;

(iii) Moving expenses;

(iv) Set-up fees or deposits for utility or service access; and

(v) Health and safety assurances such as pest eradication, allergen control, or a one-time cleaning prior to occupancy.

(b) Ongoing community support services, including:

(i) Individual housing transition services which provide direct support to eligible clients.

(ii) Individual housing and tenancy support services that promote housing success, foster community integration and inclusion, develop natural support networks, and assist clients to maintain their housing.

(3) Supportive housing services do not include rental support or other room and board related expenses.

(4) Supportive housing services must be provided:

(a) In an integrated setting of the client's choice; and

(b) In a manner that ensures the client's individual right of privacy, dignity, respect, and freedom from coercion and restraint;

(c) Post tenancy, in settings consistent with home and community-based services, such as those that:

(i) Do not have the qualities of an institution;

(ii) Are not located in a building that is also a publicly or privately operated facility providing inpatient institutional treatment;

(iii) Are not on the grounds of, or immediately adjacent to a public institution;

(iv) Do not have the effect of isolating the client from community members who are not receiving medicaid services; and

(v) Are not a licensed residential care facility such as an adult family or assisted living facility.

(5) Supported employment, such as individual placement and support (IPS) services, are individualized and may include any combination of the following services:

- (a) Vocational/job related discovery and assessment;
 - (b) Person-centered employment planning;
 - (c) Career advancement services;
 - (d) Individualized job development and placement;
 - (e) Negotiation with and follow-along supports to employers;
 - (f) Job analysis;
 - (g) Job carving;
 - (h) Job coaching;
 - (i) Benefits support, training, and planning;
 - (j) Transportation (only in conjunction with the delivery of an authorized service);
 - (k) Asset development; or
 - (l) Other workplace support services including services not specifically related to job skill training that enable the program participant to be successful in integrating into the job setting.
- (6) Supported employment services do not include wages or wage enhancements for clients.
- (7) Supported employment services must be provided:
- (a) In an integrated setting of the client's choice; and
 - (b) In a manner that ensures the client's right of privacy, dignity, respect, and freedom from coercion and restraint.

NEW SECTION

WAC 182-559-150 Foundational community supports program—Definitions. The following definitions and those found in chapter 182-500 WAC apply to this chapter.

"Community transition services" means one-time supports that cover certain costs necessary for a client to transition from an institution to a community-based setting, or prevent a client's placement in an institution.

"Individual placement and support (IPS)" refers to an evidence-based approach to supported employment services based on the following principles:

- (a) Services are open to all eligible clients who wish to work;
- (b) Competitive employment is the goal;
- (c) Integrated with other services provided to the client;
- (d) Personalized benefits planning;
- (e) Job search begins soon after the client expresses interest in working;
- (f) Job search based on client preferences;
- (g) Supports are not time-limited; and
- (h) Client preferences are honored.

"Supported employment" means coordination with state and local entities to provide assistance and support, such as skills assessment, training, education and counseling to eligible clients who want to work.

"Supportive housing" means active search and promotion of access to, and choice of, safe and affordable housing that is appropriate to the client's age, culture and needs. This includes:

(a) Providing services to eligible clients who are homeless or at risk of becoming homeless through outreach, engagement and coordination of services with shelter and housing;

(b) Ensuring the availability of community support services, with an emphasis on supporting clients in their own home or where they live in the community; and

(c) Coordinating with public housing entities, homeless continuums of care and affordable housing developers.

NEW SECTION

WAC 182-559-200 Foundational community supports program—Eligible providers. (1) Providers of supportive housing and supported employment services under this authority must be:

(a) Health care professionals, entities, or contractors as defined by WAC 182-502-0002;

(b) Agencies, centers, or facilities as defined by WAC 182-502-0002;

(c) Health home providers as described in WAC 182-557-0050;

(d) Behavioral health providers licensed and certified according to chapter 388-877 WAC; or

(e) Housing, employment, social service, or related agencies with at least one year of demonstrated experience and ability to provide supportive housing, supported employment, or equivalent services.

(2) Providers of supportive housing or supported employment services must either:

(a) Obtain a core provider agreement in accordance with WAC 182-502-0005;

(b) Enroll with the medicaid agency as a nonbilling provider in accordance with WAC 182-502-0006; or

(c) Be qualified to bill for aging and long-term support administration services to provide supportive housing or supported employment services.

NEW SECTION

WAC 182-559-300 Foundational community supports program—Eligibility. (1) To be eligible for supportive housing services, a client must:

(a) Be age eighteen or older;

(b) Be eligible for Washington apple health (medicaid);

(c) Be assessed by a qualified provider and determined to have a functional need, as described in subsection (4) of this section, for the services; and

(d) Meet one of the following population criteria:

(i) Be chronically homeless as defined by the federal Department of Housing and Urban Development;

(ii) Have frequent or lengthy institutional contact;

(iii) Have frequent or lengthy stays at adult residential care facilities as defined by WAC 388-110-020 and 246-337-005;

(iv) Have frequent turnover of in-home caregivers as defined by WAC 388-106-0040; or

(v) Have a predictive risk score of 1.5 or above. See WAC 182-557-0225.

(2) To be eligible for community transition services, a client must meet the criteria described in subsection (1) of

this section and be determined by a qualified provider to meet an institutional level of care standard for admission to either:

(a) A nursing facility, as described in WAC 388-106-0355; or

(b) An inpatient medical hospital, not including institutes for mental disease (IMD), as described in WAC 182-513-1320.

(3) To be eligible for supported employment services, a client must:

(a) Be age sixteen or older;

(b) Be eligible for apple health (medicaid);

(c) Desire to obtain employment;

(d) Be assessed by a qualified provider and determined to have a functional need for the services; and

(e) Meet one of the following population criteria:

(i) Be enrolled in the aged, blind and disabled program as defined in WAC 388-449-0001, or the housing and essential needs program as defined in WAC 388-400-0065;

(ii) Be diagnosed with at least one of the following:

(A) A severe and persistent mental illness;

(B) Substance use disorder with multiple episodes of treatment;

(C) Co-occurring mental health and substance use disorders.

(iii) Be age sixteen through twenty-four with a behavioral health diagnosis; or

(iv) Be receiving long-term services and supports as defined in chapter 388-106 WAC.

(4) Clients who meet the eligibility criteria for both supportive housing and supported employment are able to receive both services concurrently.

(5) In order to ensure the demand for services remains within available funds, the medicaid agency may:

(a) Phase-in the population eligibility criteria identified in subsections (1)(a) through (d) and (2)(a) through (e) of this section; or

(b) Impose enrollment wait list for services.

NEW SECTION

WAC 182-559-400 Foundational community supports program—Payment. The medicaid agency pays for supportive housing and supported employment described in WAC 182-559-100 when no other public funds are already dedicated to providing comparable services to the client, unless the provider can demonstrate that the client requires services that are:

(1) Outside the scope of services provided by the program already in place or for which the client is otherwise eligible; and

(2) Within the scope of the services identified as reimbursable in this section.

NEW SECTION

WAC 182-559-500 Foundational community supports program—Limitation of scope of benefits. Nothing in this chapter shall be construed as providing a legal right to any individual to any of the services referenced in this chapter. The services provided under this chapter are strictly limited to the authority granted to the state under the medicaid

transformation project and available funds, as determined solely by the authority. Nothing in this section is intended to limit the right of an applicant or a beneficiary to request an administrative hearing under applicable law.

WSR 17-08-080

PROPOSED RULES

DEPARTMENT OF HEALTH

(Occupational Therapy Practice Board)

[Filed April 4, 2017, 8:46 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05-330(1).

Title of Rule and Other Identifying Information: WAC 246-847-066 Suicide assessment training standards, proposing amendments to incorporate language consistent with 2015 legislation that amended RCW 43.70.442.

Hearing Location(s): Department of Health, Point Plaza East, Room 152, 310 Israel Road S.E., Tumwater, WA 98501, on May 12, 2017, at 9:10 a.m.

Date of Intended Adoption: May 12, 2017.

Submit Written Comments to: Kathy Weed, Department of Health, P.O. Box 47852, Olympia, WA 98504, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by May 11, 2017.

Assistance for Persons with Disabilities: Contact Kathy Weed by May 4, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESHB 1424 (2015), entitled an act relating to suicide prevention, requires occupational therapy professionals and other health professionals to complete a training program in suicide assessment, treatment, and management that has been reviewed and approved by the department of health (department). The department lists such trainings on its model list of trainings. Currently the occupational therapy rules do not specify that trainings need to be taken from the model list. This rule making will let credential holders know where to get approved suicide training. This requirement will become effective July 1, 2017.

Reasons Supporting Proposal: The bill and this rule making are in response to the serious public health issue of suicide. Suicide is the second leading cause of death in our youth and young adults (ages ten to thirty-four). There are nearly twice as many suicides as homicides of youth ages ten and [to] twenty-four. Requiring health professionals to complete suicide prevention education training is an effective method of identifying individuals at risk of suicide.

Statutory Authority for Adoption: RCW 18.59.130 and 43.70.442.

Statute Being Implemented: RCW 43.70.442.

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

Name of Proponent: Department of health, occupational therapy practice board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4883.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.036 and 34.05.310 (4)(c), a small business economic impact statement is not required for proposed rules that adopt or incorporate by reference, without material change, federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. Rules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

April 4, 2017
Beth Rollinger, OT, Chair
Occupational Therapy Practice Board

AMENDATORY SECTION (Amending WSR 14-05-016, filed 2/10/14, effective 2/15/14)

WAC 246-847-066 Suicide assessment training standards. (1) A qualifying training in suicide assessment must:

(a) Be an empirically supported training in suicide assessment that includes risk assessment, screening, and referral;

(b) Be provided by a single provider and must be at least three hours in length which may be provided in one or more sessions; and

(c)(i) Until July 1, 2017, meet any other requirements of RCW 43.70.442; or

(ii) Beginning July 1, 2017, be taken from a provider listed on the department's suicide prevention training model list.

(2) The hours spent completing a training program in suicide assessment under this section count toward meeting any applicable continued competency requirements.

(3) Nothing in this section is intended to expand or limit the occupational therapist or occupational therapy assistant scope of practice.

WSR 17-08-081
WITHDRAWAL OF PROPOSED RULES
HEALTH CARE AUTHORITY
(By the Code Reviser's Office)
[Filed April 4, 2017, 9:17 a.m.]

WAC 182-543-0500, 182-543-2000, 182-543-5000 and 182-545-200, proposed by the health care authority in WSR 16-

19-032, appearing in issue 16-19 of the Washington State Register, which was distributed on October 5, 2016, is withdrawn by the office of the code reviser under RCW 34.05.-335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 17-08-082
WITHDRAWAL OF PROPOSED RULES
HEALTH CARE AUTHORITY

(By the Code Reviser's Office)

[Filed April 4, 2017, 9:18 a.m.]

WAC 182-500-0075, 182-551-2000, 182-551-2010, 182-551-2020, 182-551-2030, 182-551-2100, 182-551-2110, 182-551-2120, 182-551-2125, 182-551-2130, 182-551-2200, 182-551-2210 and 182-551-2220, proposed by the health care authority in WSR 16-19-033, appearing in issue 16-19 of the Washington State Register, which was distributed on October 5, 2016, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 17-08-086
PROPOSED RULES
HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed April 4, 2017, 2:57 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-03-075.

Title of Rule and Other Identifying Information: New WAC 182-560-100 Achieving a Better Life Experience (ABLE) Act.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Pear Conference Room 107, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 10, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, email arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on May 9, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed by May 5, 2017, email amber.lougheed@hca.wa.gov, (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is creating this new section to implement the ABLE Act. An ABLE account allows clients who are blind or have a disability to save funds in tax-advantaged accounts for their disability related expenses. This section clarifies how ABLE accounts are counted when determining eligibility and which funds held in an ABLE account are subject to estate recovery.

Reasons Supporting Proposal: New WAC 182-559-100 is necessary to implement provisions [of] ESHB 2323, chapter 39, Laws of 2016, 64th legislature, 2016 regular session; SSB 6210, 64th legislature, 2016 regular session; and HR 647 - ABLE Act of 2014.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; ESHB 2323 and SSB 6210, 64th legislature, 2016 regular session; HR 647 - ABLE Act of 2014.

Statute Being Implemented: RCW 41.05.021, 41.05.160, ESHB 2323 and SSB 6210, 64th Legislature, 2016 regular session; HR 647 - ABLE Act of 2014.

Rule is necessary because of federal law, HR 647 - ABLE Act of 2014.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1346; Implementation and Enforcement: Stephen Kozak, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1343.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

April 4, 2017
Wendy Barcus
Rules Coordinator

Chapter 182-560 WAC

NEW SECTION

WAC 182-560-100 Achieving a Better Life Experience (ABLE) Act. This rule describes a qualified achieving a better life experience (ABLE) account and its effect on the determination of eligibility for Washington apple health coverage.

- (1) A qualified ABLE account:
 - (a) Is established and maintained by a state, or its designated agency or entity;
 - (b) Meets federal requirements under 26 U.S.C. Sec. 529A; and
 - (c) Is used to save funds for the disability related expenses of the account's designated beneficiary.
- (2) This section applies to ABLE account beneficiaries who:
 - (a) Are entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act; or

(b) Meet the blindness or disability requirements under WAC 182-512-0050 (1)(b) and (c).

(3) The disability or blindness described in subsection (2)(a) or (b) of this section must have occurred before age twenty-six.

(4) This section does not apply if the total combined annual contributions to an ABLE account exceed the gift tax annual exclusion amount identified in the Internal Revenue Service publication 559.

(5) When determining countable income for apple health programs for the account's designated beneficiary, the medic-aid agency or the agency's designee does not:

- (a) Count contributions made to the ABLE account;
- (b) Count funds distributed from the account;
- (c) Count earnings generated by the account, such as accrued interest or dividends; or
- (d) Reduce income used to determine eligibility by the amount of contributions made to the account, including any funds the designated beneficiary may contribute to it.

(6) When determining eligibility for apple health programs, the agency or the agency's designee excludes as resources:

- (a) The value of an ABLE account, including any earnings generated by the account; and
- (b) Subject to subsection (8) of this section, distributions from the account for qualified disability expenses as long as the beneficiary:
 - (i) Maintains an ABLE account;
 - (ii) Contributes to an ABLE account; or
 - (iii) Receives distributions from such ABLE account.

(7) "Qualified disability expense (QDE)" means any expense related to the beneficiary's blindness or disability that is made for the benefit of the beneficiary, including the following expenses:

- (a) Education;
- (b) Housing;
- (c) Transportation;
- (d) Employment training and support;
- (e) Assistive technology and personal support services;
- (f) Health;
- (g) Prevention and wellness;
- (h) Financial management;
- (i) Legal fees;
- (j) Expenses for oversight and monitoring; and
- (k) Funeral and burial expenses.

(8) Distributions under subsection (6)(b) of this section, which are retained into a subsequent calendar month:

- (a) Remain excluded as resources as long as the distributions are identifiable and the beneficiary still intends to use the distribution for a QDE;
- (b) Are available resources on the first day of a subsequent calendar month if the intent of the beneficiary changes such that the beneficiary will not use the distribution for a QDE; and
- (c) Are available resources on the first day of any subsequent month when the distribution is actually used for a non-QDE.

(9) The agency or the agency's designee counts as a resource on the first day of the following month any funds

distributed for purposes other than paying a QDE expense described in subsection (7) of this section.

(10) If the beneficiary has multiple ABLE accounts, the agency or the agency's designee applies this section to the first ABLE account established.

(11) Funds remaining in the ABLE account when the beneficiary dies are subject to estate recovery under chapter 182-527 WAC, less any:

(a) Outstanding QDE debts; and

(b) Premium payments made from the ABLE account on behalf of the beneficiary to obtain coverage under the apple health care for workers with disabilities described in WAC 182-511-1000.

WSR 17-08-091

PROPOSED RULES

WASHINGTON STATE UNIVERSITY

[Filed April 5, 2017, 8:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-05-012.

Title of Rule and Other Identifying Information: Rules regarding student conduct hearings and appeals in chapter 504-26 WAC, Standards of conduct for students and chapter 504-04 WAC, Practice and procedure.

Hearing Location(s): Lighty 405, Washington state university (WSU), Pullman, Pullman, Washington, on May 10, 2017, at 4:00 p.m.

Date of Intended Adoption: June 9, 2017.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, fax (509) 335-3969, by May 10, 2017.

Assistance for Persons with Disabilities: Contact Joy Faerber by May 8, 2017.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments are intended to update and clarify the standards of conduct for students including, but not limited to, student conduct hearings and appeals.

Reasons Supporting Proposal: On December 1, 2016, the Washington Court of Appeals, Division III, issued a decision in the case of *Arishi vs. Washington State University*, 196 Wash. App. 878, 385 P.3d 251 (2016). The court held that universities are required to use full adjudications under the Washington Administrative Procedure Act for certain student disciplinary matters. These rules implement changes to WSU's student conduct process to comply with the court's decision. Additionally, the rule in WAC 504-04-110 sets forth areas where WSU's full adjudications will differ from the model rules of procedure in chapter 10-08 WAC. These are based on Title IX of the Civil Rights Act of 1964, its implementing regulations, and guidance from the federal Office for Civil Rights regarding Title IX.

Statutory Authority for Adoption: RCW 28B.30.150.

Rule is necessary because of federal law and state court decision, Title IX of the Civil Rights Act of 1964; *Arishi vs.*

Washington State University, 196 Wash. App. 878, 385 P.3d 251 (2016).

Name of Proponent: WSU, public.

Name of Agency Personnel Responsible for Drafting: Danielle Hess, Senior Assistant Attorney General, Attorney General's Office, WSU Division, French Administration 332, Pullman, Washington 99164-1031, (509) 335-2636; Implementation and Enforcement: Mary Jo Gonzales, Vice President, Student Affairs, French Administration 134, Pullman, Washington 99164-1013, (509) 335-4531 or Stacy Pearson, Vice President, Finance and Administration, French Administration 442, Pullman, Washington 99164-1048, (509) 335-2600.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rule has no impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. The university does not consider this rule to be a significant legislative rule.

April 5, 2017

D. Bartlett, Director

Procedures, Records, and Forms
And University Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-16-089, filed 8/6/13, effective 9/6/13)

WAC 504-04-010 Matters subject to brief adjudication. The following proceedings are matters to be treated as brief adjudications pursuant to RCW 34.05.482 through 34.05.491:

(1) Student conduct proceedings. (~~The procedural rules of chapter 504-26 WAC apply to these proceedings.~~) Student conduct proceedings under chapter 504-26 WAC are treated as brief adjudications, except for matters involving sanctions of suspension for greater than ten instructional days, expulsion, revocation of degree, or loss of recognition of a student organization, which shall be referred for a full (formal) adjudication in accordance with this chapter.

(2) Appeals of residency determinations. If a hearing is required by law or constitutional right, appeals of residency determinations under RCW 28B.15.013 are brief adjudicative proceedings conducted by the office of admissions.

(3) Appeals of parking violations. Appeals of parking violations are brief adjudicative proceedings conducted pursuant to applicable rules. See WAC 504-13-860, 504-14-860, 504-15-860, and 504-19-860.

(4) Hearings on student records. Hearings pursuant to the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g are to be brief adjudicative proceedings conducted pursuant to the rules of chapter 504-21 WAC.

(5) Hearings on denial of financial aid. Any hearings required by state or federal law regarding granting, modification or denial of financial aid are brief adjudicative proceedings conducted by the office of scholarships and financial aid.

(6) Emergency withdrawal of students. Proceedings to disenroll students for medical or psychological reasons are brief adjudicative proceedings conducted by the office of student affairs.

(7) Discipline and termination of student employees. When required by law, hearings for the termination of or imposition of disciplinary measures on student employees shall be brief adjudicative proceedings.

AMENDATORY SECTION (Amending WSR 89-23-117, filed 11/22/89, effective 12/23/89)

WAC 504-04-020 Appointment of presiding officers for all adjudicative proceedings. The president of Washington State University or his or her designee shall have the power to appoint (~~(committees or)~~) members of the faculty, staff and student body; administrative law judges; members in good standing of the Washington state bar association; the president or his or her designee; a person or entity with whom the university contracts; or any combination of the above to be presiding officers for formal and brief adjudicative proceedings. When more than one individual is designated to be the presiding officer, one person shall be designated by the president or president's designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters. The term "presiding officer" as used in this chapter shall be read in the plural when the context demands.

AMENDATORY SECTION (Amending WSR 89-23-117, filed 11/22/89, effective 12/23/89)

WAC 504-04-110 Adoption of model rules of procedure for formal (full) proceedings—Exceptions. In formal proceedings (also referred to as full adjudications) pursuant to RCW 34.05.413 through 34.05.476, Washington State University follows the Administrative Procedure Act (chapter 34.05 RCW) and hereby adopts the model rules of procedure adopted by the office of administrative hearings, chapter 10-08 WAC, with the following exceptions and modifications:

(1) WAC 10-08-190 Adjudicative proceedings(~~(cameras recording)~~)—Cameras—Recording devices.

See WAC 504-04-120 which determines the use of cameras and recording devices at adjudicative proceedings.

~~((Other procedural rules adopted in this title and this chapter are supplementary to the model rules.))~~ (2) WAC 10-08-040 Adjudicative proceedings—Notice of hearing. In addition to this model rule regarding notice, the provisions in WAC 504-26-401(5) and 504-26-403 (1) and (2) apply.

(3) The parties in a student conduct matter implicating Title IX of the Civil Rights Act of 1964 (Title IX) shall include the complainant(s) if the complainant(s) notifies the university that she/he wishes to participate as a party.

(4) WAC 10-08-120 Adjudicative proceedings—Subpoenas. In determining whether to issue, quash, or modify a subpoena to a complainant/witness in a student conduct matter implicating Title IX, the presiding officer shall give due consideration to state and federal legal requirements including, but not limited to, Title IX, its implementing regulations, and guidance issued by the federal office for civil rights. In such cases, the party requesting the subpoena has the burden of showing that a subpoena is necessary for full disclosure of all the relevant facts and issues.

(5) Cross examination. As required by RCW 34.05.449, cross examination of witnesses shall be permitted to the extent necessary for full disclosure of all relevant facts and issues. However, in a student conduct matter implicating Title IX, the complainant and respondent shall not be permitted to cross examine each other directly. The preferred method of cross examination in all student conduct matters is through written questions submitted to, and asked by, the presiding officer. The presiding officer may decline to ask cross examination questions that are irrelevant, immaterial, or unduly repetitious. In accordance with evidence rule 412, a complainant's sexual history generally will not be admissible. All questions submitted by the parties will be retained as part of the agency record. At the request of either participating party in a student conduct matter implicating Title IX, the requesting party shall be permitted to participate remotely, or in a different room, in accordance with chapter 504-26 WAC.

(6) Discovery. Depositions, interrogatories, and medical examinations of parties as part of discovery are not permitted in adjudications of student conduct matters. Other forms of discovery may be permitted at the discretion of the presiding officer; however, discovery should be limited to help ensure the prompt completion of the adjudication process, in accordance with RCW 34.05.446.

(7) Standard of proof. The standard of proof in student conduct proceedings is preponderance of the evidence.

(8) Administrative review in full adjudications. Within twenty days of service of an initial order resulting from a full adjudication in a student conduct proceeding, or a different time period as specified in the initial order, a student or student organization may appeal the decision to the university president or designee, who reviews the matter in accordance with RCW 34.05.464. Complainants in student conduct matters shall be afforded the same right to appeal as respondents. The university president or designee, of his or her own initiative, may review any initial order resulting from a full adjudication. The decision of the president shall be the final order of the university. If no appeal is initiated, the initial order following a full adjudication becomes the final order of the university after twenty-one days, or the day after the appeal period specified in the initial order, whichever is sooner.

In the case of a conflict between the model rules and procedural rules adopted by Washington State University, the procedural rules adopted by the university shall govern.

AMENDATORY SECTION (Amending WSR 89-23-117, filed 11/22/89, effective 12/23/89)

WAC 504-04-120 Confidentiality of student, faculty and staff formal adjudicative proceedings. In formal adjudicative proceedings, the presiding officer shall have the power to close all or part of the hearing to public observation. The presiding officer shall have the power to impose reasonable conditions upon observation of the proceeding. The presiding officer also shall have the power to regulate the use of photographic and recording equipment. In the case of hearings involving discipline, termination, or medical withdrawal, hearings will normally be closed to public observation. In student conduct matters implicating Title IX, hearings will be closed to public observation.

AMENDATORY SECTION (Amending WSR 89-23-117, filed 11/22/89, effective 12/23/89)

WAC 504-04-130 Advising and representation of parties. Any person whose rights are in issue in a formal adjudicative proceeding shall have the right to have an adviser present during any stage of the proceedings. However, only persons admitted to the practice of law in the state of Washington, including licensed legal interns pursuant to admission to practice rule 9, shall be permitted to act as a representative at the proceedings. The presiding officer shall have the power to impose reasonable conditions upon participation of advisors and representatives.

AMENDATORY SECTION (Amending WSR 89-23-117, filed 11/22/89, effective 12/23/89)

WAC 504-04-140 Discovery. Discovery in formal hearings may be permitted at the discretion of the presiding officer, except as provided in WAC 504-04-110(6). In permitting discovery, reference shall be made to the civil rules applicable in court proceedings for guidance.

The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

AMENDATORY SECTION (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

WAC 504-26-001 Preamble. Washington State University, a community dedicated to the advancement of knowledge, expects all students to behave in a manner consistent with its high standards of scholarship and conduct. Students are expected to uphold and be accountable for these standards both on and off campus and acknowledge the university's authority to take disciplinary action. The purpose of these standards and processes is to educate students and protect the welfare of the university community.

Accordingly, the conduct process is nonadversarial to the extent possible, confidential except to the extent permitted by law and these standards of conduct (this chapter), and not to be considered analogous to court proceedings. Further, the conduct process is independent of any criminal or civil penalties. WSU permits students to have advisors in certain circumstances in the student conduct process, but the role of the advisor is very limited, except in full adjudications. Sanctions under these standards of conduct are intended to challenge students' moral and ethical decision making and help them bring their behavior into accord with university community expectations. When students are unable to conform their behavior to community expectations, the student conduct process may determine that they should no longer share in the privilege of participating in the university community.

AMENDATORY SECTION (Amending WSR 16-08-014, filed 3/28/16, effective 4/28/16)

WAC 504-26-010 Definitions. (1) The term "accused student" means any student accused of violating the standards of conduct for students (this chapter).

(2) The term "appeals board" means any person or persons authorized by the vice president for student affairs to consider an appeal from a university conduct board's or conduct officer's determination, or a determination after a full adjudication, as to whether a student has violated the standards of conduct for students and any sanctions imposed.

(3) The term "cheating" includes, but is not limited to:

(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.

(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.

(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.

(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:

(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;

(ii) Counterfeiting a record of internship or practicum experiences;

(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.

(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.

(f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by the office of student conduct. The policy for responding to allegations of scientific misconduct may be reviewed by contacting the office of research.

(g) Unauthorized collaboration on assignments.

(h) Intentionally obtaining unauthorized knowledge of examination materials.

(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(j) Unauthorized multiple submission of the same work.

(k) Sabotage of others' work.

(l) Tampering with or falsifying records.

(4) The term "complainant" means any party, including the university, who submits a charge alleging that a student violated the standards of conduct for students.

(5) The term "faculty member" for purposes of this chapter, means any person hired by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty.

(6) The term "gender identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to the person at birth.

(7) The term "may" is used in the permissive sense.

(8) The term "member of the university community" includes any person who is a student, faculty member, university official, any person employed by the university, or any person with a relationship with the university. A person's status in a particular situation is determined by the vice president for student affairs or designee.

(9) The term "policy" means the written regulations of the university as found in, but not limited to, the standards of conduct for students, residence life handbook, the university web page and computer use policy, and graduate/undergraduate catalogs.

(10) The term "recognized student organization" means any number of persons who have complied with the formal requirements for university recognition.

(11) The term "shall" is used in the imperative sense.

(12) The term "student" includes all persons taking courses at the university, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the standards of conduct for students, who are not officially enrolled for a particular term but who have a continuing relationship with the university (including suspended students) or who have been notified of their acceptance for admission are considered "students" as are persons who are living in university residence halls, although not enrolled in this institution.

(13) The term "student conduct officer" means a university official authorized by the vice president for student affairs to manage conduct complaints including the imposition of sanctions upon any student(s) found to have violated the standards of conduct for students.

(14) The term "university" means all locations of Washington State University.

(15) The term "university conduct board" means those persons who, collectively, have been authorized by the vice president for student affairs to determine whether a student has violated the standards of conduct for students and to impose sanctions when a student is found responsible by the board to have violated these standards of conduct.

(16) The term "academic integrity hearing board" means teaching faculty and student representatives who, collectively, have been authorized by the university or college to review an instructor's determination that a student violated university academic integrity policies and whether or not the outcome proposed by the instructor is in keeping with the instructor's published policies.

(17) The term "university official" includes any person employed by the university, performing assigned administrative or professional responsibilities.

(18) The term "university premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the university (including adjacent streets and sidewalks).

(19) The vice president for student affairs is that person designated by the university president to be responsible for the administration of the standards of conduct for students.

AMENDATORY SECTION (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

WAC 504-26-100 Composition of conduct and appeals boards. (1) The university conduct board shall be composed of five individuals appointed by the vice president for student affairs and comprised of students and persons who are any category of university employee, including affiliate faculty and staff. The chairperson of the conduct board shall be named by the vice president for student affairs and shall be a university employee.

Any three persons constitute a quorum of a conduct board and may act, provided that at least one student and the chairperson are present.

(2) The appeals board shall be appointed by the vice president for student affairs. It shall be composed of three persons, including the chair. The chair shall be a university employee. The other members may be university employees, including affiliate faculty and staff, or students (~~(- provided that the student members have had at least one academic year of service on the university conduct board)~~). Three persons constitute a quorum of the appeals board.

AMENDATORY SECTION (Amending WSR 14-11-025, filed 5/12/14, effective 6/12/14)

WAC 504-26-221 Sexual misconduct. (1) Sexual misconduct is an egregious form of sex discrimination/sexual harassment. A number of acts may be regarded as sexual misconduct including, but not limited to, nonconsensual sexual contact (including sexual intercourse) and sexual exploitation. Sexual misconduct includes sexual assault and other sexual violence.

(2) Consent. Consent to any sexual activity must be clear, knowing, affirmative, and voluntary. Anything less is equivalent to a "no." Clear, knowing, affirmative, and voluntary consent to sexual activity requires that, at the time of the act, ~~((actual))~~ and throughout the sexual contact, all parties actively express words or conduct that a reasonable person would conclude demonstrates clear permission regarding willingness to engage in sexual activity and the conditions of such activity. Consent is active; silence or passivity is not consent. Even if words or conduct alone seem to imply consent, sexual activity is nonconsensual when:

(a) Force or coercion is threatened or used to procure compliance with the sexual activity.

(i) Force is the use of physical violence, physical force, threat, or intimidation to overcome resistance or gain consent to sexual activity.

(ii) Coercion is unreasonable pressure for sexual activity. ~~((Coercive behavior differs from seductive behavior based on the type of pressure someone uses to obtain consent from another.))~~ When an individual makes it clear through words or actions that ~~((he or she))~~ the individual does not want to engage in sexual contact, wants to stop, or does not want to go past a certain point of sexual interaction, continued pressure beyond that point may be coercive. Other examples of coercion may include using blackmail or extortion to overcome resistance or gain consent to sexual activity.

(b) The person is asleep, unconscious, or physically unable to communicate his or her unwillingness to engage in sexual activity; or

(c) ~~((The))~~ A reasonable person would or should know that the other person lacks the mental capacity at the time of the sexual activity to be able to understand the nature or consequences of the act, whether that incapacity is produced by illness, defect, the influence of alcohol or another substance, or some other cause. When alcohol or drugs are involved, a person is considered incapacitated or unable to give valid consent if ~~((she or he))~~ the individual cannot fully understand the details of the sexual interaction (i.e., who, what, when, where, why, and how), and/or ~~((he or she))~~ the individual lacks the capacity to reasonably understand the situation and to make rational, reasonable decisions.

(3) Nonconsensual sexual contact is any intentional sexual touching, however slight, with any object or body part, by one person against another person's intimate parts (or clothing covering any of those areas), or by causing another person to touch his or her own or another person's intimate body parts without consent and/or by force. Sexual contact also can include any intentional bodily contact in a sexual manner with another person's nonintimate body parts. It also includes nonconsensual sexual intercourse.

(4) Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses explained above. Examples of sexual exploitation may include, but are not limited to:

(a) Causing or attempting to cause the incapacitation of another person to gain sexual advantage over such other person;

(b) Invading another person's sexual privacy;

(c) Prostituting another person;

(d) Engaging in voyeurism. A person commits voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, records, or films another person, without that person's knowledge and consent, while the person being viewed, photographed, recorded, or filmed is in a place where he or she has a reasonable expectation of privacy;

(e) Knowingly or recklessly exposing another person to a significant risk of sexually transmitted disease or infection;

(f) Exposing one's intimate parts in nonconsensual circumstances;

(g) Sexually based stalking and/or bullying.

(5) Use of alcohol or other drugs is not a valid defense to a violation of this policy.

AMENDATORY SECTION (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

WAC 504-26-401 Complaints and student conduct process. (1) Any member of the university community may file a complaint against a student for violations of the standards of conduct for students.

(2) A student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the standards of conduct for students. If a conduct officer determines that a complaint appears to state a violation of the standards of conduct, she or he considers whether the matter might be resolved through agreement with the accused or through alternative dispute resolution proceedings involving the complainant and the accused. The complainant and the accused are informed of university options for alternative dispute resolution and may request that the matter be addressed using alternative dispute resolution techniques. Generally, the accused and complainant must agree to the use of alternative dispute resolution techniques. If the accused and the student conduct officer reach an agreed resolution of the complaint, the disposition is final; there is no right to appeal from an agreed disposition.

(3) If the conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or alternative dispute resolution, the matter is handled through either a conduct officer hearing or ~~((as a university conduct board hearing))~~ referred for a full adjudication in accordance with chapter 504-04 WAC.

(a) ~~((When the allegation involves harm or threat of harm to any person or person's property and the accused disputes the facts and/or denies responsibility, the matter may be referred to the university conduct board for resolution.~~

~~((b)))~~ If the possible or recommended sanction is suspension for greater than ten instructional days, expulsion ~~((or suspension)), revocation of degree, or loss of recognition of a student organization, the matter is referred ~~((to the university conduct board))~~ for a full adjudication in accordance with chapter 504-04 WAC.~~

~~((c)))~~ (b) Matters other than those listed in (a) ~~((and (b)))~~ of this subsection are heard by a conduct officer, unless the conduct officer exercises his or her discretion to refer the matter ~~((to a conduct board at any time before a decision is issued. A student may request that a conduct board hear the case, but the final decision to refer the matter to the university conduct board for hearing is made by the university conduct officer and such decision is not subject to appeal))~~ for a full adjudication.

(4) The student conduct officer provides complainants who have been targets of alleged misconduct or who feel victimized thereby with names of university and community advocates or resources who may be able to help the complainant address his or her concerns about the behaviors and provide support to the complainant throughout the conduct process. Upon request, a university advisor from the office of the dean of students is available to the complainant and the accused student to assist in understanding the student conduct process. Due to federal privacy law, the university may not disclose to the complainant any sanctions taken against the accused student, unless the complainant was the victim of a violent crime for which the accused was found responsible as

defined under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99), or the accused student consents to such disclosure.

(5) All notifications and service under this chapter are delivered either by electronic mail or other electronic means, delivered personally, or sent via regular U.S. mail. Notifications sent via regular U.S. mail are sent to the party's last known address or the address on file with the university registrar. The student or recognized student organization is responsible for maintaining an updated mailing address on file with the registrar. Deadlines described in this chapter begin the date the notification is sent via electronic means, personally delivered, or placed in regular U.S. mail.

(6) Throughout the conduct process, the complainant and the accused student have the right to be assisted by an advisor they choose, at their own expense. Upon request, a university advisor from the office of the dean of students is available to the complainant and the accused student to assist in understanding the student conduct process. Except in full adjudications pursuant to chapter 504-04 WAC, the complainant and/or the accused student is responsible for presenting his or her own information, and therefore, during the hearing, advisors are not permitted to address the board, witnesses, conduct officers or any party or representatives invited by the parties to the hearing, nor to participate directly in any university conduct board hearing, conduct officer hearing, or other aspect of the conduct process. An advisor may communicate with the accused and recesses may be allowed for this purpose. A student should select as an advisor a person whose schedule allows attendance at the scheduled date and time for the scheduled meeting or hearing. The scheduling conflicts of an advisor are not considered good cause for a delay and do not entitle either party to a delay.

(7) ~~((The conduct officer or university conduct board's))~~ Determinations in student conduct matters are made on the basis of a "preponderance of the evidence," that is, whether it is more likely than not that the accused student violated the standards of conduct for students.

(8) Formal rules of process, procedure, and/or technical rules of evidence, such as are applied in criminal or civil court, are not used in conduct board or conduct officer proceedings. Relevant evidence, including hearsay, is admissible if it is the type of evidence that reasonable members of the university community would rely upon in the conduct of their affairs. The chair of the university conduct board and/or the conduct officer shall have the discretion to determine admissibility of evidence.

AMENDATORY SECTION (Amending WSR 16-08-014, filed 3/28/16, effective 4/28/16)

WAC 504-26-402 Conduct officer actions. (1) Any student ~~((charged))~~ alleged by a conduct officer ~~((with a violation of))~~ to have violated any provision of standards of conduct for students is notified of the basis for the charge or charges and of the time, date, and place of a conference between the student and the conduct officer through one of the procedures in WAC 504-26-401(5).

Any request to extend the time and/or date of the conduct officer conference/hearing should be addressed to the conduct officer or presiding officer, as applicable.

(2) In order that any informality in disciplinary proceedings not mislead a student as to the seriousness of the matter under consideration, the student is informed of the potential sanctions involved at the initial conference or hearing.

(3) After a review of the evidence and interviewing the student(s) involved in the case, the conduct officer may take any of the following actions:

(a) Terminate the proceeding and enter a finding that the accused student or recognized student organization is not responsible for the alleged conduct violation;

(b) Dismiss the investigation, which may be reopened at a later date if relevant information that was unknown to the conduct officer arises;

(c) Impose appropriate sanctions as provided in WAC 504-26-405. Such sanctions are subject to the student's right of appeal as provided in these standards of conduct; or

(d) Refer the matter ~~((to the university conduct board pursuant to WAC 504-26-401(3)))~~ for a full adjudication in accordance with chapter 504-04 WAC.

(4) The conduct officer may consider the student's past contacts with the office of student conduct in determining an appropriate sanction and/or deciding whether to refer the case for a ~~((university conduct board hearing))~~ full adjudication.

(5) The student is notified in writing of the determination made by the conduct officer within ten business days of the proceeding. The notice includes information regarding the student's right to appeal pursuant to WAC 504-26-407.

NEW SECTION

WAC 504-26-4031 Procedure for formal (full) adjudicative proceedings. The procedures for formal adjudicative proceedings are contained in chapter 504-04 WAC. The terms "formal" and "full" in reference to adjudications have the same meaning and are used interchangeably.

AMENDATORY SECTION (Amending WSR 16-08-014, filed 3/28/16, effective 4/28/16)

WAC 504-26-404 Procedure for academic integrity violations. (1) Initial hearing.

(a) When a responsible instructor finds that a violation of academic integrity has occurred, the instructor shall assemble the evidence and, upon reasonable notice to the student of the date, time, and nature of the allegations, meet with the student suspected of violating academic integrity policies. If the student admits violating academic integrity policies, the instructor assigns an outcome in keeping with published course policies and notifies the office of student conduct in writing, including the allegations, the student's admission, and the sanctions imposed.

(b) If the instructor is unable to meet with the student or if the accused student disputes the allegation(s) and/or the outcome proposed by the instructor, the instructor shall make a determination as to whether the student did or did not violate the academic integrity policy. If the instructor finds that the student was in violation, the instructor shall provide the student and the office of student conduct with a written deter-

mination, the evidence relied upon, and the sanctions imposed.

(c) The student has twenty-one days from the date of the decision letter to request review of the instructor's determination and/or sanction(s) imposed to the academic integrity hearing board.

(2) Review.

(a) Upon timely request for review by a student who has been found by his or her instructor to have violated the academic integrity policy, the academic integrity hearing board shall make a separate and independent determination of whether or not the student is responsible for violating the academic integrity policy and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(b) The academic integrity hearing board is empowered to provide an appropriate remedy for a student including arranging a withdrawal from the course, having the student's work evaluated, or changing a grade where it finds that:

(i) The student is not responsible for violating academic integrity policies; or

(ii) The outcome imposed by the instructor violates the instructor's published policies.

(c) Students who appear before the academic integrity board shall have the same rights to notice and to conduct a defense as enumerated in WAC 504-26-403 except:

(i) Notice of hearing and written orders shall be sent to the address provided by the student in the student's request for review (unless an address is not provided therein); and

(ii) The written decision of the academic integrity hearing board is the university's final order. There is no appeal from findings of responsibility or outcomes assigned by university or college academic integrity hearing boards.

(3) If the reported violation is the student's first offense, the office of student conduct ordinarily requires the student to attend a workshop separate from, and in addition to, any academic outcomes imposed by the instructor. A hold is placed on the student's record preventing registration or graduation until completion of the workshop.

(4) If the reported violation is the student's second offense, the student is ordinarily ~~((required to appear before a university conduct board))~~ referred for a full adjudicative hearing in accordance with chapter 504-04 WAC, with a recommendation that the student be dismissed from the university.

(5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the student is found responsible is particularly egregious in light of all attendant circumstances, the instructor or academic integrity hearing board may direct that the student's case be ~~((heard by the university conduct board))~~ referred for a full adjudicative hearing, with a recommendation for dismissal from the university even if it is the student's first offense.

(6) Because instructors and departments have a legitimate educational interest in the outcomes, reports of academic integrity hearing board and/or conduct board hearings shall be reported to the responsible instructor and the chair or dean.

AMENDATORY SECTION (Amending WSR 16-08-014, filed 3/28/16, effective 4/28/16)

WAC 504-26-406 Interim suspension. In certain circumstances, the vice president for student affairs, or a designee, may impose an interim suspension prior to the university conduct board hearing or at any time prior to the university's final order.

(1) Interim suspension may be imposed only in situations involving an immediate danger to the health, safety or welfare of:

(a) Any part of the university community or public at large; or

(b) The student's own physical safety and well-being.

(2) Conduct that creates an ongoing disruption of, or interference with, the operations of the university and that prevents other students, employees, or invitees from members of the university community from completing their duties as employees or students, is conduct harmful to the welfare of members of the university community.

(3) During the interim suspension, a student may be denied access to the residence halls, and/or to the campus (including classes), and/or all other university activities or privileges for which the student might otherwise be eligible, as the vice president for student affairs or designee may determine to be appropriate.

(4) The vice president for student affairs or designee ordering an interim suspension prepares a brief written decision containing the reasons for the decision (both the factual basis and the conclusions as to why those facts constitute a violation of the standards of conduct for students), and the policy reasons for the interim suspension. The vice president of student affairs or designee sends copies of the decision by personal delivery, by regular U.S. mail, or by electronic mail to all persons or offices bound by it (including, at a minimum, the suspended student and the office of student conduct).

(5) The interim suspension does not replace the regular hearing process, which shall proceed to a conduct officer hearing or a full adjudicative hearing in accordance with chapter 504-04 WAC, as appropriate, as quickly as feasible ~~((ordinarily within five working days of the notice of the interim suspension where the accused student has not consented to a longer time frame))~~.

AMENDATORY SECTION (Amending WSR 16-08-014, filed 3/28/16, effective 4/28/16)

WAC 504-26-407 Review of decision in brief adjudications.

(1) The findings and sanctions rendered by the university conduct board or a conduct officer may be appealed by the complainant and accused student(s) in the manner prescribed in the decision letter containing the findings and sanctions. Such appeal must be made before twenty-one days of the date of the decision letter. The director of student conduct provides a copy of the appeal request by one party to the other party (parties) as appropriate.

(a) The university president or designee, of his or her own initiative, may direct that an appeals board be convened to review a conduct board or conduct officer decision without notice to the parties. However, the appeals board may not take any action less favorable to the accused student(s),

unless notice and an opportunity to explain the matter is first given to the accused student(s).

(b) If the complainant or accused student and/or the student conduct officer or designee wish to explain their views of the matter to the appeals board they shall be given an opportunity to do so in writing.

(c) The appeals board shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal adjudicative hearing under the Administrative Procedure Act (chapter 34.05 RCW).

(2) Except as required to explain the basis of new information, an appeal is limited to a review of the verbatim record of the university conduct board hearing and the conduct file for conduct board decisions or the conduct file for conduct officer decisions for one or more of the following purposes:

(a) To determine whether the university conduct board hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the standards of conduct for students were violated, and giving the accused student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice results.

(b) To determine whether the decision reached regarding the accused student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct for students occurred.

(c) To determine whether the sanction(s) imposed were appropriate for the violation of the standards of conduct for students which the student was found to have committed.

(d) To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original university conduct board hearing.

(3) The university appeals board shall review the record and all information provided by the parties and take one of the following actions:

(a) Affirm, reverse, or modify the conduct board's or conduct officer's decision;

(b) Affirm, reverse, or modify the sanctions imposed by the conduct board or conduct officer;

(c) Set aside the findings and sanctions or remand the matter back to the conduct board or conduct officer with instructions for further proceedings.

(4) The appeals board's decision shall be personally delivered, sent via regular U.S. mail, or electronically mailed to the student. Such decision shall be delivered or mailed to the last known address of the accused student(s) or electronically mailed to the student's official university electronic mail account. It is the student's responsibility to maintain a correct and updated address with the registrar. The university appeals board's decision letter is the final order and shall advise the student or recognized student organization that judicial review may be available. If the appeals board does not provide the student with a response within twenty days after the

request for appeal is received, the request for appeal is deemed denied.

(5) The appeals board decision is effective as soon as the order is signed ~~(, except in cases involving expulsion or loss of recognition. In cases involving expulsion or loss of recognition, the appeals board decision is effective ten calendar days from the date the order is signed, unless the university president or designee provides written notice of additional review as provided in subsection (6) of this section.~~

~~(6) For cases involving expulsion or loss of recognition, the university president or designee may review a decision of the appeals board by providing written notice to the student or recognized student organization no later than ten calendar days from the date the appeals board decision is signed.~~

~~(a) This review is limited to the record and purposes stated in subsection (2) of this section.~~

~~(b) Prior to issuing a decision, the president or designee shall make any inquiries necessary to determine whether the proceeding should be converted into a formal adjudicative hearing under the Administrative Procedure Act (chapter 34.05 RCW).~~

~~(c) If the complainant or accused student and/or the student conduct officer or designee wish to explain their views of the matter to the president or designee, they shall do so in writing.~~

~~(d) The president or designee's decision is in writing, includes a brief statement of the reasons for the decision, and is issued within twenty calendar days after the date of the appeals board order. The decision becomes effective as soon as it is signed and includes a notice that judicial review may be available).~~

~~((7)) (6) Students may petition to delay the date that the final order of the university becomes effective by directing a petition to the chair of the appeals board, or the president or designee, as applicable, within ten calendar days of the date the order was personally delivered to the student or placed in the regular U.S. mail, or electronically mailed. The chair, or the president or designee, as applicable, shall have authority to decide whether to grant or deny the request.~~

~~((8)) (7) There is no further review beyond that of the findings of responsibility or outcomes assigned by university or college academic integrity hearing boards.~~

AMENDATORY SECTION (Amending WSR 06-23-159, filed 11/22/06, effective 12/23/06)

WAC 504-26-601 Interpretations. Except in full adjudications, any question of interpretation or application of the standards of conduct for students is referred to the vice president for student affairs or designee for final determination.

WSR 17-08-092

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed April 5, 2017, 9:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-23-149.

Title of Rule and Other Identifying Information: WAC 182-538-040 Introduction, 182-538-050 Definitions, 182-538-110 The grievance system for managed care organizations (MCO), 182-538-140 Quality of care, 182-538A-110 The grievance system for fully integrated managed care (FIMC) managed care organizations (MCOs), 182-538B-110 Grievance system, and 182-538C-040 Behavioral health services.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Pear Conference Room 107, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 10, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, email arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on May 9, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed by May 5, 2017, email amber.lougheed@hca.wa.gov, (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending these rules to comply with the federal rule changes adopted by the Centers for Medicare and Medicaid Services, which revised 42 C.F.R. Parts 431, 433, 438, 440, 457 and 495. These changes modernize the medicaid managed care regulations to reflect changes in the use of managed care delivery systems and are primarily related to the grievance and appeals process rules.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is necessary because of federal law, 42 C.F.R. Parts 431, 433, 438, 440, 457, and 495.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1408; Implementation and Enforcement: Evelyn Cantrell, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-9970.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

April 5, 2017
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-040 Introduction. This chapter governs services provided under the Washington apple health managed care contracts. ~~((Washington apple health managed care services are available through either a managed care organization (MCO) or primary care case management (PCCM) provider.))~~ If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-050 Definitions. The following definitions and abbreviations and those found in chapter 182-500 WAC, Medical definitions, apply to this chapter.

~~("Action")~~ **"Administrative hearing"** means the agency's administrative hearing process available to an enrollee under chapter 182-526 WAC for review of an adverse benefit determination in accordance with RCW 74.09.741.

"Adverse benefit determination" means one or more of the following:

(a) The denial or limited authorization of a requested service, including determinations based on the type or level of service, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit;

(b) The reduction, suspension, or termination of a previously authorized service;

(c) The denial, in whole or in part, of payment for a service;

(d) The failure to provide services in a timely manner, as defined by the state; ~~((or))~~

(e) The failure of a managed care organization (MCO) to act within the time frames provided in 42 C.F.R. Sec. 438.408 (a), (b)(1) and (2) for standard resolution of appeals; or

(f) For a resident of a rural area with only one MCO, the denial of an enrollee's request to exercise the enrollee's right to obtain services outside the network under 42 C.F.R. Sec. 438.52 (b)(2)(ii).

"Agency" - See WAC 182-500-0010.

"Appeal" means a ~~((request by an enrollee or provider with written permission))~~ review by an MCO of an ((enrollee for reconsideration of an action)) adverse benefit determination.

"Apple health foster care (AHFC)" means the managed care program developed by the agency and the department of social and health services to serve children and youth in foster care and adoption support and young adult alumni of the foster care program.

"Assign" or **"assignment"** means the agency selects an MCO to serve a client who has not selected an MCO.

"Auto enrollment" means the agency has automatically enrolled a client into an MCO in the client's area of residence.

"Client" means, for the purposes of this chapter, ~~((an individual))~~ a person eligible for any Washington apple health program, including managed care programs, but who is not enrolled with an MCO or PCCM provider.

"Disenrollment" - See "end enrollment."

"Emergency medical condition" means a condition meeting the definition in 42 C.F.R. Sec. 438.114(a).

"Emergency services" means services defined in 42 C.F.R. Sec. 438.114(a).

"End enrollment" means ending the enrollment of an enrollee for one of the reasons outlined in WAC 182-538-130.

"Enrollee" means ~~((an individual))~~ a person eligible for any Washington apple health program enrolled in managed care with an MCO or PCCM provider that has a contract with the state.

"Enrollee's representative" means a person with a legal right or written authorization from the enrollee to act on behalf of the enrollee in making decisions.

"Enrollees with special health care needs" means enrollees having chronic and disabling conditions and the conditions:

- (a) Have a biologic, psychological, or cognitive basis;
- (b) Have lasted or are virtually certain to last for at least one year; and
- (c) Produce one or more of the following conditions stemming from a disease:
 - (i) Significant limitation in areas of physical, cognitive, or emotional function;
 - (ii) Dependency on medical or assistive devices to minimize limitation of function or activities; or
 - (iii) In addition, for children, any of the following:
 - (A) Significant limitation in social growth or developmental function;
 - (B) Need for psychological, educational, medical, or related services over and above the usual for the child's age; or
 - (C) Special ongoing treatments, such as medications, special diet, interventions, or accommodations at home or school.

"Exemption" means agency approval of a client's preenrollment request to remain in the fee-for-service delivery system for one of the reasons outlined in WAC 182-538-130.

"Grievance" means an expression of dissatisfaction about any matter other than an ~~((action, as "action" is defined in this section))~~ adverse benefit determination.

"Grievance and appeal system" means the ~~((overall system that includes grievances and appeals handled at the MCO level and access to the agency's hearing process))~~ processes the MCO implements to handle appeals of adverse benefit determinations and grievances, as well as the processes to collect and track information about them.

"Health care service" or **"service"** means a service or item provided for the prevention, cure, or treatment of an illness, injury, disease, or condition.

"Managed care" means a comprehensive health care delivery system that includes preventive, primary, specialty, and ancillary services. These services are provided through either an MCO or PCCM provider.

"Managed care contract" means the agreement between the agency and an MCO to provide prepaid contracted services to enrollees.

"Managed care organization" or **"MCO"** means an organization having a certificate of authority or certificate of registration from the office of insurance commissioner that contracts with the agency under a comprehensive risk contract to provide prepaid health care services to enrollees under the agency's managed care programs.

"Mandatory enrollment" means the agency's requirement that a client enroll in managed care.

"Mandatory service area" means a service area in which eligible clients are required to enroll in an MCO.

"Nonparticipating provider" means a person, health care provider, practitioner, facility, or entity acting within their scope of practice and licensure that:

- (a) Provides health care services to enrollees; and
- (b) Does not have a written agreement with the managed care organization (MCO) to participate in the MCO's provider network.

"Participating provider" means a person, health care provider, practitioner, or entity acting within their scope of practice and licensure with a written agreement with the MCO to provide services to enrollees.

"Primary care case management" or **"PCCM"** means the health care management activities of a provider that contracts with the agency to provide primary health care services and to arrange and coordinate other preventive, specialty, and ancillary health services.

"Primary care provider" or **"PCP"** means a person licensed or certified under Title 18 RCW including, but not limited to, a physician, an advanced registered nurse practitioner (ARNP), naturopath, or a physician assistant who supervises, coordinates, and provides health services to a client or an enrollee, initiates referrals for specialist and ancillary care, and maintains the client's or enrollee's continuity of care.

"Timely" concerning the provision of services, means an enrollee has the right to receive medically necessary health care as expeditiously as the enrollee's health condition requires. Concerning authorization of services and grievances and appeals, "timely" means according to the agency's managed care program contracts and the time frames stated in this chapter.

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-110 The grievance and appeal system, independent review, and agency administrative hearing for managed care organization((s)) (MCO) enrollees. (1) Introduction. This section contains information about the grievance ~~((system for managed care organization(-)) and appeal system, the right to independent review, and the right to an agency administrative hearing for MCO((s)) enrollees.~~ See WAC 182-538-111 for information about PCCM enrollees.

(2) Statutory basis and framework.

(a) Each MCO must have a grievance and appeal system in place for enrollees. ~~((The system must comply with the requirements of 42 C.F.R. 438 Subpart F, medicaid agency rules in Title 182 WAC, and the rules of the state office of insurance commissioner (OIC) in chapter 284-43 WAC.~~

(b) ~~The agency's hearing rules in chapter 182-526 WAC apply to administrative hearings requested by enrollees to review resolution of an enrollee appeal of an MCO action.~~

(c) ~~If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.~~

~~(2))~~ (b) Once an MCO enrollee has completed the MCO appeal process, the enrollee has the option of requesting an independent review (IR) (referred to as an external medical review (EMR) in the Code of Federal Regulations (C.F.R.)) by an independent review organization (IRO) regarding any adverse benefit determination upheld by the MCO. See subsection (8) of this section.

(c) Once an MCO enrollee has completed the MCO appeals process, the MCO enrollee also has the option of requesting an agency administrative hearing regarding any adverse benefit determination upheld by the MCO. See chapter 182-526 WAC.

(3) MCO grievance and appeal system - General requirements.

(a) The MCO grievance and appeal system must include:

(i) A process for addressing complaints about any matter that is not an ~~((action))~~ adverse benefit determination, which is ~~((called))~~ a grievance;

(ii) An appeal~~((s))~~ process to address enrollee requests for review of an MCO ~~((action))~~ adverse benefit determination;

(iii) Access to an independent review (IR) by an independent review organization (IRO) in accordance with RCW 48.43.535 ~~((and WAC 182-526-0200))~~, chapters 284-43 and 284-43A WAC, and subsection (8) of this section; and

(iv) Access to the agency's administrative hearing process for review of an MCO's resolution of an appeal.

(b) MCOs must provide information describing the MCO's grievance and appeal system to all providers and subcontractors.

(c) An MCO must have agency approval for written materials sent to enrollees regarding the grievance and appeal system, independent review, and the agency's administrative hearing process.

(d) MCOs must inform enrollees in writing within fifteen calendar days of enrollment about enrollees' rights with instructions on how to use the MCO's grievance and appeal system, independent review, and the agency's administrative hearing process.

(e) An MCO must give enrollees any reasonable assistance in completing forms and other procedural steps for grievances and appeals (e.g., interpreter services and toll-free numbers).

(f) An MCO must allow enrollees and their authorized representatives to file grievances and appeals orally as well as in writing. MCOs may not require enrollees to provide written follow-up for a grievance or an appeal the MCO received orally.

(g) The MCO must resolve each grievance and appeal and provide notice of the resolution as expeditiously as the enrollee's health condition requires, and within the time frames identified in this section.

(h) The MCO must ensure that the ~~((individuals))~~ people who make decisions on grievances and appeals are ~~((individuals))~~ people:

(i) Who were ~~((not))~~ neither involved in any previous level of review or decision making, nor a subordinate of that person; and

(ii) Who are health care professionals ((who have)) with appropriate clinical expertise in treating the enrollee's condition or disease if deciding any of the following:

(A) An appeal of an ((action)) adverse benefit determination concerning medical necessity;

(B) A grievance concerning denial of an expedited resolution of an appeal; or

(C) A grievance or appeal that involves any clinical issues.

~~((3))~~ (iii) Who take into account all comments, documents, records, and other information submitted by the enrollee or the enrollee's representative without regard to whether the information was submitted or considered in the initial adverse benefit determination.

(4) The MCO grievance process.

(a) Only an enrollee or enrollee's authorized representative may file a grievance with ~~((an))~~ the MCO. A provider may not file a grievance on behalf of an enrollee without the enrollee's written consent.

(b) ~~((An))~~ The MCO must acknowledge receipt of each grievance ~~((filed orally or in writing))~~ within two business days. Acknowledgment may be orally or in writing.

(c) The MCO must complete the ~~((disposition))~~ resolution of a grievance and provide notice to the affected parties as expeditiously as the enrollee's health condition requires, but no later than forty-five days after receiving the grievance.

(d) The MCO must notify enrollees of the ~~((disposition))~~ resolution of grievances within five business days of determination.

(i) Notices of ~~((disposition))~~ resolution of grievances not involving clinical issues can be oral or in writing.

(ii) Notices of ~~((disposition))~~ resolution of grievances for clinical issues must be in writing.

(e) Enrollees do not have a right to an agency administrative hearing ~~((in regards))~~ to dispute the ~~((disposition))~~ resolution of a grievance.

~~((4))~~ (5) MCO's notice of ((action)) adverse benefit determination.

(a) Language and format requirements. The notice of ~~((action))~~ adverse benefit determination must be in writing in the enrollee's primary language, and in an easily understood format, in accordance with 42 C.F.R. Sec. 438.404.

(b) Content of notice ((of action)). The notice of MCO ~~((action))~~ adverse benefit determination must explain:

(i) The ~~((MCO's action or action))~~ adverse benefit determination the MCO has made or intends to ((take)) make, and any pertinent effective date;

(ii) The reasons for the ~~((action))~~ adverse benefit determination, including citation to rules or regulations and the MCO criteria that were the basis of the decision;

(iii) The enrollee's right to receive upon request, free of charge, reasonable access to and copies of all documents, records, and other information relevant to the enrollee's adverse benefit determination, including medical necessity

criteria and any processes, strategies, or evidentiary standards used in setting coverage limits:

(iv) The enrollee's right to file an appeal of the MCO adverse benefit determination, including information on the MCO appeal process, the right to an independent review, and the right to request an agency administrative hearing;

(v) The procedures for exercising the enrollee's rights;

(vi) The circumstances under which an appeal can be expedited and how to request it;

(vii) The enrollee's right to have benefits continued pending resolution of an appeal, how to request that benefits be continued, and the circumstances under which the enrollee may be required to pay the costs of these services.

(c) Timing of notice. The MCO must mail the notice of adverse benefit determination within the following time frames:

(i) For termination, suspension, or reduction of previously authorized services, at least ten calendar days prior to the effective date of the adverse benefit determination in accordance with 42 C.F.R. Sec. 438.404 and 431.211. This time period does not apply if the criteria in 42 C.F.R. Sec. 431.213 or 431.214 are met. This notice must be mailed by a method that certifies receipt and assures delivery within three calendar days.

(ii) For denial of payment, at the time of any adverse benefit determination affecting the claim. This applies only when the enrollee can be held liable for the costs associated with the adverse benefit determination.

(iii) For standard service authorization decisions that deny or limit services, as expeditiously as the enrollee's health condition requires not to exceed fourteen calendar days following receipt of the request for service. An extension of up to fourteen additional days may be allowed if:

(A) The enrollee or enrollee's provider requests the extension.

(B) The MCO determines and justifies to the agency upon request, a need for additional information and that the extension is in the enrollee's interest.

(iv) If the MCO extends the time frame for standard service authorization decisions, the MCO must:

(A) Give the enrollee written notice of the reason for the decision to extend and inform the enrollee of the right to file a grievance if the enrollee disagrees with that decision; and

(B) Issue and carry out its determination as expeditiously as the enrollee's health condition requires and no later than the date the extension expires.

(v) For expedited authorization decisions:

(A) In cases involving mental health drug authorization decisions, or where the provider indicates or the MCO determines that following the standard time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain, or regain maximum function, the MCO must make an expedited authorization decision and provide notice no later than seventy-two hours after receipt of the request for service.

(B) The MCO may extend the seventy-two-hour time frame up to fourteen calendar days if:

(I) The enrollee requests the extension; or

(II) The MCO determines and justifies to the agency, upon request, there is a need for additional information and it is in the enrollee's interest.

(6) The MCO appeal process.

(a) Authority to appeal. An enrollee, the enrollee's authorized representative, or the provider acting with the enrollee's written consent may appeal an adverse benefit determination from the MCO.

(b) Oral appeals. An MCO must treat oral inquiries about appealing an adverse benefit determination as an appeal to establish the earliest possible filing date for the appeal. The oral appeal must be confirmed in writing by the MCO, unless the enrollee or provider requests an expedited resolution.

(c) Acknowledgment letter. The MCO must acknowledge receipt of each appeal to both the enrollee and the requesting provider within five calendar days. The appeal acknowledgment letter sent by the MCO serves as written confirmation of an appeal filed orally by an enrollee.

(d) Standard service authorization - Sixty-day deadline. For appeals involving standard service authorization decisions, an enrollee must file an appeal within sixty calendar days of the date on the MCO's notice of adverse benefit determination. This time frame also applies to a request for an expedited appeal.

(e) Previously authorized service - Ten-day deadline. For appeals of adverse benefit determinations involving termination, suspension, or reduction of a previously authorized service, and the enrollee is requesting continuation of the service, the enrollee must file an appeal within ten calendar days of the MCO mailing notice of the adverse benefit determination.

(f) Untimely service authorization decisions. When the MCO does not make a service authorization decision within required time frames, it is considered a denial. In this case, the MCO sends a formal notice of adverse benefit determination, including the enrollee's right to an appeal.

(g) Appeal process requirements. The MCO appeal process must:

(i) Provide the enrollee a reasonable opportunity to present evidence and allegations of fact or law, both in person and in writing. The MCO must inform the enrollee of the limited time available for this in the case of expedited resolution;

(ii) Provide the enrollee and the enrollee's representative opportunity before and during the appeal process to examine the enrollee's case file, including medical records and any other documents and records considered during the appeal process free of charge; and

(iii) Include as parties to the appeal:

(A) The enrollee and the enrollee's representative; or

(B) The legal representative of the deceased enrollee's estate.

(h) Level of appeal. There will only be one level of review in the MCO appeals process.

(i) Time frames for resolution of appeals and notice to the enrollee. MCOs must resolve each appeal and provide notice as expeditiously as the enrollee's health condition requires, and within the following time frames:

(i) For standard resolution of appeals, including notice to the affected parties, no longer than ~~((forty-five))~~ thirty calendar days from the day the MCO receives the appeal. This includes appeals involving termination, suspension, or reduction of previously authorized services.

(ii) For expedited resolution of appeals, ~~((or appeals of mental health drug authorization decisions,))~~ including notice to the affected parties, no longer than three calendar days after the MCO receives the appeal. ~~((+))~~ The MCO may extend the seventy-two-hour time frame up to fourteen calendar days if:

(A) The enrollee requests the extension; or

(B) The MCO determines and shows to the satisfaction of the agency, upon request, there is a need for additional information and it is in the enrollee's interest.

(iii) If the MCO fails to adhere to the notice and timing requirements for appeals, the enrollee is deemed to have completed the MCO's appeals process and may initiate an agency administrative hearing.

(j) Language and format requirements - Notice of resolution of appeal.

(i) The notice of the resolution of the appeal must be in writing in the enrollee's primary language and in an easily understood format, in accordance with 42 C.F.R. Sec. 438.10.

(ii) The notice of the resolution of the appeal must

~~((+ Be in writing and))~~ be sent to the enrollee and the requesting provider.

(iii) For notice of an expedited resolution, the MCO must also make reasonable efforts to provide oral notice.

~~((ii Include))~~ **(k) Content of resolution of appeal.**

(i) The notice of resolution must include the results of the resolution process and the date it was completed

~~((j) Administrative hearing rights. For appeals not resolved wholly in favor of the enrollee, the notice of resolution of the appeal must:~~

~~((i) Include information on the enrollee's right to request an agency administrative hearing and how to do so as provided in the agency hearing rules in WAC 182-526-0200;~~

~~((ii) Include information on the enrollee's right to receive services while the hearing is pending and how to make the request as described in the agency hearing rules in WAC 182-526-0200; and~~

~~((iii) Inform the enrollee that the enrollee may be held liable for the cost of services received for the first sixty days after an administrative hearing request is received by the agency or the office of administrative hearings (OAH), if the hearing decision upholds the MCO's action.~~

~~((+))~~;

(ii) For appeals not resolved wholly in favor of the enrollee, the notice of resolution must include:

(A) The right to request an independent review (IR) in accordance with RCW 48.43.535 and subsection (8) of this section;

(B) The right to request an agency administrative hearing in accordance with RCW 74.09.741 and chapter 182-526 WAC, and how to request the hearing;

(C) The right to request and receive benefits while an agency administrative hearing is pending, and how to make the request in accordance with subsection (10) of this section

and the agency's administrative hearing rules in chapter 182-526 WAC;

(D) That the enrollee may be held liable for the cost of those benefits received for the first sixty days after the agency or the office of administrative hearings (OAH) receives an agency administrative hearing request, if the hearing decision upholds the MCO's adverse benefit determination. See RCW 74.09.741 (5)(g).

(7) MCO expedited appeal process.

(a) Each MCO must establish and maintain an expedited appeal ~~((review))~~ process ~~((for appeals))~~ when the MCO determines or the provider indicates that taking the time for a standard resolution of an appeal could seriously jeopardize the enrollee's life ~~((or)),~~ physical or mental health, or ability to attain, maintain, or regain maximum function.

(b) The enrollee may file an expedited appeal either orally or in writing. No additional follow-up is required of the enrollee.

(c) The MCO must make a decision on the enrollee's request for expedited appeal and provide written notice as expeditiously as the enrollee's health condition requires and no later than ~~((three))~~ two calendar days after the MCO receives the appeal. The MCO must also make reasonable efforts to orally notify the enrollee of the decision.

(d) The MCO may extend the time frame for decision on the enrollee's request for an expedited appeal up to fourteen calendar days if:

(i) The enrollee requests the extension; or

(ii) The MCO determines and shows to the satisfaction of the agency, upon its request, that there is a need for additional information and the delay is in the enrollee's interest.

(e) The MCO must make reasonable efforts to provide the enrollee prompt verbal notice and provide written notice for any extension not requested by the enrollee with the reason for the delay.

(f) If the MCO grants an expedited appeal, the MCO must issue a decision as expeditiously as the enrollee's physical or mental health condition requires, but not later than ~~((three business days))~~ seventy-two hours after receiving the appeal. The MCO may extend the time frame for a decision and to provide notice to the enrollee for an expedited appeal, up to fourteen days, if:

(i) The enrollee requests the extension; or

(ii) The MCO determines and shows to the satisfaction of the agency, upon its request, that there is a need for additional information and the delay is in the enrollee's interest.

(g) The MCO must provide written notice for any extension not requested by the enrollee within two calendar days of the decision and inform the enrollee of the reason for the delay and the enrollee's right to file a grievance.

~~((g))~~ (h) If the MCO denies a request for expedited resolution of an appeal, it must:

(i) Process the appeal based on the time frame for standard resolution;

(ii) Make reasonable efforts to give the enrollee prompt oral notice of the denial; and

(iii) Provide written notice within two calendar days.

~~((h))~~ (i) The MCO must ensure that punitive action is not taken against a provider who requests an expedited resolution or supports an enrollee's appeal.

~~((7))~~ (8) **Independent review.**

(a) After completing the MCO's appeal process, an enrollee may request an independent review (IR) by a certified independent review organization (IRO) of an adverse benefit determination by the MCO that resulted in a decision not wholly favorable to the enrollee. See RCW 48.43.535.

(b) The enrollee must submit a request for an IR according to the time frame and process established by the MCO in accordance with RCW 48.43.535, chapter 284-43 WAC, and chapter 284-43A WAC.

(c) The IR is optional for the enrollee and is not required before the enrollee requests an agency administrative hearing.

(d) A request for an IR stays (postpones) any pending agency administrative hearing regarding the adverse benefit determination until the IR process is completed.

(e) The IR option is not available once an agency administrative hearing has been held and an initial or final order has been issued regarding the adverse benefit determination.

(9) **Agency administrative hearing.**

(a) ~~((Only an enrollee or enrollee's authorized representative may request an administrative hearing. A provider may not request a hearing on behalf of an enrollee.))~~ **Authority to file.** See WAC 182-526-0090 and 182-526-0155.

(b) **Right to agency administrative hearing.** If an enrollee does not agree with the MCO's resolution of an appeal and has completed the MCO process, the enrollee may file a request for an agency administrative hearing based on the rules in this section and the agency administrative hearing rules in ~~((WAC 182-526-0200))~~ chapter 182-526 WAC.

(c) **Deadline - One hundred twenty days.** An enrollee's request for an agency administrative hearing must be filed no later than one hundred twenty calendar days from the date of the written notice of resolution of appeal from the MCO. A request for independent review does not stay the deadline for requesting an agency administrative hearing.

(d) **Independent party.** The MCO is an independent party and responsible for its own representation in any agency administrative hearing, ~~((independent review,))~~ appeal to the board of appeals, and any subsequent judicial proceedings.

~~((d))~~ An enrollee must exhaust the appeals process within the MCO's grievance system before requesting an administrative hearing with the agency.

~~((8))~~ (e) **Applicable rules.** The agency's administrative hearing rules in chapter 182-526 WAC apply to agency administrative hearings requested by enrollees to review the resolution of an enrollee appeal of an MCO adverse benefit determination.

(10) **Continuation of previously authorized services** ~~((during the appeal process)).~~

(a) The MCO must continue the enrollee's services if all of the following apply:

(i) The enrollee, or enrollee's authorized representative, or ~~((the))~~ provider with written consent files the appeal on or before the later of the following:

(A) Within ten calendar days of the MCO mailing the notice of ~~((action involving services previously authorized))~~ adverse benefit determination; or

(B) The intended effective date of the MCO's proposed ~~((action))~~ adverse benefit determination.

(ii) The appeal involves the termination, suspension, or reduction of ~~((a))~~ previously authorized ~~((course of treatment))~~ services;

(iii) The services were ordered by an authorized provider; and

(iv) The original period covered by the original authorization has not expired ~~((; and~~

~~((v))~~ The enrollee requests an extension of services).

(b) If the MCO continues or reinstates the enrollee's services while the appeal is pending at the enrollee's request, the services must be continued until one of the following occurs:

(i) The enrollee withdraws the appeal;

(ii) ~~((Ten calendar days pass after the MCO mails notice of the resolution of the appeal against the enrollee and the enrollee has not requested an agency administrative hearing with continuation of services during the ten day time frame;))~~ The enrollee fails to request an agency administrative hearing within ten calendar days after the MCO sends the notice of an adverse resolution to the enrollee's appeal;

(iii) The enrollee withdraws the request for an agency administrative hearing; or

(iv) The office of administrative hearings (OAH) issues a hearing decision adverse to the enrollee ~~((;~~

~~((iv))~~ The time period or service limits of a previously authorized service has been met).

(c) If the final resolution of the appeal upholds the MCO's ~~((action))~~ adverse benefit determination, the MCO may recover from the enrollee the amount paid for the services provided to the enrollee for the first sixty calendar days after the agency or the office of administrative hearings (OAH) received a request for an agency administrative hearing ~~((was received by the agency or OAH)),~~ to the extent that services were provided solely because of the requirement for continuation of services.

~~((9))~~ (11) **Effect of reversed resolutions of appeals.**

(a) **Services not furnished while an appeal is pending.** If the MCO, or an independent review organization, or a final order as defined in chapter 182-526 WAC ~~((; or an independent review organization (IRO))~~ reverses a decision to deny, limit, or delay services that were not provided while the appeal was pending, the MCO must authorize or provide the disputed services promptly, and as expeditiously as the enrollee's health condition requires, but not later than seventy-two hours from the date it receives notice reversing the determination.

(b) **Services furnished while the appeal is pending.** If the MCO or a final order reverses a decision to deny authorization of services ~~((or the denial is reversed through an IRO or a final order of OAH or the board of appeals))~~ and the enrollee received the disputed services while the appeal was pending, the MCO must pay for those services.

AMENDATORY SECTION (Amending WSR 15-24-098, filed 12/1/15, effective 1/1/16)

WAC 182-538-140 Quality of care. (1) To assure that managed care enrollees receive quality health care services, the agency requires managed care organizations (MCOs) to

comply with quality improvement standards detailed in the agency's managed care contract. ~~((MCO's))~~ MCOs must:

- (a) Have a clearly defined quality organizational structure and operation, including a fully operational quality assessment, measurement, and improvement program;
- (b) Have effective means to detect over and underutilization of services;
- (c) Maintain a system for provider and practitioner credentialing and recredentialing;
- (d) Ensure that MCO subcontracts and the delegation of MCO responsibilities align with agency standards;
- (e) Ensure MCO oversight of delegated entities responsible for any delegated activity to include:
 - (i) A delegation agreement with each entity describing the responsibilities of the MCO and the entity;
 - (ii) Evaluation of the entity before delegation;
 - (iii) An annual evaluation of the entity; and
 - (iv) Evaluation or regular reports and follow-up on issues that are not compliant with the delegation agreement or the agency's managed care contract specifications.
- (f) Cooperate with an agency-contracted, qualified independent external quality review organization (EQRO) conducting review activities as described in 42 C.F.R. Sec. 438.358;
- (g) Have an effective mechanism to assess the quality and appropriateness of care furnished to enrollees with special health care needs;
- (h) Assess and develop individualized treatment plans for enrollees with special health care needs which ensure integration of clinical and nonclinical disciplines and services in the overall plan of care;
 - (i) Submit annual reports to the agency on performance measures as specified by the agency;
 - (j) Maintain a health information system that:
 - (i) Collects, analyzes, integrates, and reports data as requested by the agency;
 - (ii) Provides information on utilization, grievances and appeals, enrollees ending enrollment for reasons other than the loss of medicaid eligibility, and other areas as defined by the agency;
 - (iii) Retains enrollee grievance and appeal records described in 42 C.F.R. Sec. 438.416, base data as required by 42 C.F.R. Sec. 438.5(c), MLR reports as required by 42 C.F.R. Sec. 438.8(k), and the data, information, and documentation specified in 42 C.F.R. Secs. 438.604, 438.606, 438.408, and 438.610 for a period of no less than ten years;
 - (iv) Collects data on enrollees, providers, and services provided to enrollees through an encounter data system, in a standardized format as specified by the agency; and
 - ~~((iv*))~~ (v) Ensures data received from providers is adequate and complete by verifying the accuracy and timeliness of reported data and screening the data for completeness, logic, and consistency.
 - (k) Conduct performance improvement projects designed to achieve significant improvement, sustained over time, in clinical care outcomes and services, and that involve the following:
 - (i) Measuring performance using objective quality indicators;

- (ii) Implementing system changes to achieve improvement in service quality;
- (iii) Evaluating the effectiveness of system changes;
- (iv) Planning and initiating activities for increasing or sustaining performance improvement;
- (v) Reporting each project status and the results as requested by the agency; and
- (vi) Completing each performance improvement project timely so as to generally allow aggregate information to produce new quality of care information every year.
 - (l) Ensure enrollee access to health care services;
 - (m) Ensure continuity and coordination of enrollee care;
 - (n) Maintain and monitor availability of health care services for enrollees;
 - (o) Perform client satisfaction surveys; and
 - (p) Obtain and maintain national committee on quality assurance (NCQA) accreditation.
- (2) The agency may:
 - (a) Impose intermediate sanctions under 42 C.F.R. Sec. 438.700 and corrective action for substandard rates of clinical performance measures and for deficiencies found in audits and on-site visits;
 - (b) Require corrective action for findings for noncompliance with any contractual state or federal requirements; and
 - (c) Impose sanctions for noncompliance with any contractual, state, or federal requirements not corrected.

AMENDATORY SECTION (Amending WSR 16-05-051, filed 2/11/16, effective 4/1/16)

WAC 182-538A-110 The grievance and appeal system, independent review, and agency administrative hearing for fully integrated managed care (FIMC) managed care organization((s)) (MCO((s))) enrollees. Managed care enrollees in fully integrated managed care (FIMC) regional service areas ~~((may file grievances or appeal actions through the grievance system of managed care organizations (MCOs) as))~~ follow the same rules and process described in WAC 182-538-110.

AMENDATORY SECTION (Amending WSR 16-05-051, filed 2/11/16, effective 4/1/16)

WAC 182-538B-110 Grievance and appeal system, independent review, and agency administrative hearing. (1) Introduction. This section contains information about the managed care organization (MCO) grievance and appeal system, independent review, and the agency's administrative hearing process for enrollees under the behavioral health services wraparound contract in fully integrated managed care (FIMC) regional service areas.

- (a) The MCO must have a grievance and appeal system and access to independent review and an agency administrative hearing to allow enrollees to file grievances and seek review of an MCO action as defined in this chapter.
- (b) The agency's administrative hearing rules in chapter 182-526 WAC apply to agency administrative hearings requested by an enrollee to review the resolution of an enrollee's appeal of an MCO action.

(c) If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.

(d) The MCO's policies and procedures regarding the grievance system must be approved by the agency.

~~((e) The MCO must maintain records of grievances and appeals.))~~

(2) **MCO grievance and appeal system.** The MCO grievance and appeal system includes:

(a) A grievance process for addressing complaints about any matter that is not an action ~~((which is called a grievance))~~;

(b) An appeals process to address an enrollee's request for review of an MCO action;

(c) Access to an independent review by an independent review organization (IRO) under RCW 48.43.535 and ~~((WAC 182-526-0200))~~ subsection (5) of this section;

(d) Access to the agency's administrative hearing process for review of an MCO's resolution of an appeal; and

(e) Allowing enrollees and ~~((their))~~ the enrollee's authorized representatives to file grievances and appeals orally or in writing. An MCO cannot require enrollees to provide written follow-up for a grievance or an appeal the MCO received orally.

(3) The MCO grievance process.

(a) An enrollee or enrollee's authorized representative may file a grievance with an MCO. A provider may not file a grievance on behalf of an enrollee without the enrollee's written consent.

(b) An enrollee does not have a right to an agency administrative hearing in regards to the ~~((disposition))~~ resolution of a grievance.

(c) The MCO must acknowledge receipt of each grievance either orally or in writing within two business days.

(d) The MCO must notify enrollees of the ~~((disposition))~~ resolution of grievances within five business days of determination.

(4) The MCO appeals process.

(a) An enrollee, the enrollee's authorized representative, or a provider acting on behalf of the enrollee with the enrollee's written consent may appeal an MCO action.

(b) An MCO treats oral inquiries about appealing an action as an appeal to establish the earliest possible filing date for the appeal. The MCO confirms the oral appeal in writing.

(c) An MCO must acknowledge receipt of each appeal to both the enrollee and the requesting provider within three calendar days. The appeal acknowledgment letter sent by the MCO serves as written confirmation of an appeal filed orally by an enrollee.

(d) The enrollee must file an appeal of an MCO action ~~((must be filed))~~ within ~~((ninety))~~ sixty calendar days of the date on the MCO's notice of action.

(e) The MCO ~~((will))~~ is not ~~((be))~~ obligated to continue services pending the results of an appeal or subsequent agency administrative hearing.

(f) The MCO appeal ~~((s))~~ process:

(i) Provides the enrollee a reasonable opportunity to present evidence and allegations of fact or law, both in person and in writing;

(ii) Provides the enrollee and the enrollee's authorized representative opportunity before and during the appeal ~~((s))~~ process to examine the enrollee's case file, including medical records and any other documents and records considered during the appeal ~~((s))~~ process at no charge; and

(iii) Includes as parties to the appeal:

(A) The enrollee and the enrollee's authorized representative; and

(B) The legal representative of the deceased enrollee's estate.

(g) The MCO ensures that the ~~((individuals))~~ people making decisions on appeals:

(i) Were not involved in any previous level of review or decision making; and

(ii) Are health care professionals who have appropriate clinical expertise in treating the enrollee's condition or disease if deciding either of the following:

(A) An appeal of an action involving medical necessity; or

(B) An appeal that involves any clinical issues.

(h) Time frames for resolution of appeals.

(i) An MCO resolves each appeal and provides notice as expeditiously as the enrollee's health condition requires and no longer than ~~((three calendar days))~~ seventy-two hours after the day the MCO receives the appeal.

(ii) The MCO may extend the time frame by an additional fourteen calendar days if:

(A) The enrollee requests the extension; or

(B) The MCO determines additional information is needed and delay is in the interests of the enrollee.

(i) Notice of resolution of appeal. The notice of the resolution of the appeal must:

(i) Be in writing and be sent to the enrollee and the requesting provider;

(ii) Include the results of the resolution of the appeal process and the date it was completed; and

(iii) Include information on the enrollee's right to request an agency administrative hearing and how to do so as provided in the agency hearing rules in WAC 182-526-0200, if the appeal is not resolved wholly in favor of the enrollee.

(5) Independent review.

(a) After completing the MCO's appeal process, an enrollee may request an independent review (IR) by a certified independent review organization (IRO) of an adverse benefit determination by the MCO that resulted in a decision wholly unfavorable to the enrollee. See RCW 48.43.535.

(b) An enrollee must submit a request for an IR according to the time frames and process established by the MCO in accordance with RCW 48.43.535 and chapter 284-43 WAC.

(c) The IR is optional for the enrollee and not required before the enrollee requests an agency administrative hearing.

(d) A request for an IR stays (postpones) any pending agency administrative hearing regarding the adverse benefit determination until the IR process is completed.

(e) The IR option is not available once an agency administrative hearing has been held and an initial or final order has been issued regarding the adverse benefit determination.

(6) Agency administrative hearing.

(a) Only an enrollee or enrollee's authorized representative may request an agency administrative hearing. A provider may not request a hearing on behalf of an enrollee.

(b) If an enrollee does not agree with the MCO's resolution of an appeal and has completed the MCO process, the enrollee may file a request for an agency administrative hearing based on the rules in this section and the agency hearing rules in WAC 182-526-0200. The enrollee must request an agency administrative hearing within ninety calendar days of the notice of resolution of appeal.

(c) An MCO is an independent party and responsible for its own representation in any agency administrative hearing, independent review, appeal to the board of appeals, and any subsequent judicial proceedings.

~~((d) An enrollee must exhaust the appeals process within the MCO's grievance system before requesting an administrative hearing with the agency.~~

~~((6))~~ **(7) Effect of reversed resolutions of appeals.** If an MCO, a final order as defined in chapter 182-526 WAC, or an independent review organization (IRO) reverses a decision to deny or limit services, the MCO must authorize or provide the disputed services promptly and as expeditiously as the enrollee's health condition requires.

~~((7) Grievance system termination.)~~ **(8) Available resources exhausted.** When available resources are exhausted, any appeals process, independent review, or agency administrative hearing process related to a request to authorize a service will be terminated, since services cannot be authorized without funding regardless of medical necessity.

AMENDATORY SECTION (Amending WSR 16-05-051, filed 2/11/16, effective 4/1/16)

WAC 182-538C-040 Behavioral health services. (1)

This chapter governs crisis-related and other behavioral health services provided under the medicaid agency's behavioral health administrative services organization (BH-ASO) contract.

(2) The BH-ASO contracts with the agency to provide behavioral health services within a fully integrated managed care (FIMC) regional service area.

(a) The BH-ASO provides the following services to all ~~((individuals))~~ people, regardless of insurance status, income level, ability to pay, and county of residence:

(i) Mental health crisis services; and

(ii) Operation of a behavioral health ombuds ~~((ombudsman))~~.

(b) The BH-ASO may provide substance use disorder crisis services within available resources to all ~~((individuals))~~ people, regardless of the ~~((individual's))~~ person's insurance status, income level, ability to pay, and county of residence.

(c) The BH-ASO provides the following services to ~~((individuals))~~ people who are not eligible for medicaid coverage and are involuntarily or voluntarily detained under chapter 71.05 or 71.34 RCW, RCW 70.96A.140, or a less restrictive alternative (LRA) court order:

(i) Evaluation and treatment services;

(ii) Substance use disorder residential treatment services; and

(iii) Outpatient behavioral services, under an LRA court order.

(d) To be eligible to contract with the agency, the BH-ASO must:

(i) Accept the terms and conditions of the agency's contracts; and

(ii) Be able to meet the network and quality standards established by the agency.

(e) Services related to the administration of chapters 71.05 and 71.34 RCW and RCW 70.96A.140.

(3) The BH-ASO may provide contracted noncrisis behavioral health services to ~~((individuals))~~ people in an FIMC regional service area:

(a) Within available resources;

(b) Based on medical necessity; and

(c) In order of priority to populations as identified by state and federal authorities.

(4) Within an FIMC regional service area, the BH-ASO is a subcontractor with all FIMC managed care organizations (MCOs) to provide crisis services for medicaid enrollees and the administration of involuntary treatment acts under RCW 70.96A.140 or chapter 71.05 or 71.34 RCW.

(5) For medicaid-funded services subcontracted for by FIMC managed care organizations (MCOs) to the BH-ASO:

(a) Grievances and appeals must be filed with the FIMC MCO; and

(b) The grievance and appeal system, independent review, and the agency's administrative hearing rules in chapter 182-538 WAC apply instead of the grievance and appeal system and hearing rules in this chapter.

AMENDATORY SECTION (Amending WSR 16-15-030, filed 7/13/16, effective 8/13/16)

WAC 182-538C-110 Grievance and appeal system and agency administrative hearing for behavioral health administrative services organizations (BH-ASOs). (1)

General. This section applies to the behavioral health administrative service organization (BH-ASO) grievance system for people within fully integrated managed care (FIMC) regional service areas.

(a) The BH-ASO must have a grievance and appeal system to allow a person to file a grievance and request a review of a BH-ASO action as defined in this chapter.

(b) The agency's administrative hearing rules in chapter 182-526 WAC apply to agency administrative hearings requested by a person to review the resolution of an appeal of a BH-ASO action.

(c) If a conflict exists between the requirements of this chapter and other rules, the requirements of this chapter take precedence.

(d) The BH-ASO must maintain records of grievances and appeals.

(e) The BH-ASO is not obligated to continue services pending the results of an appeal or subsequent agency administrative hearing.

(2) **The BH-ASO grievance and appeal system.** The BH-ASO grievance system includes:

(a) A process for addressing complaints about any matter that is not an action (~~(, which is called a grievance)~~);

(b) An appeal ~~((s))~~ process to address a person's request for a review of a BH-ASO action as defined in this chapter; and

(c) Access to the agency's administrative hearing process for a person to request a review of a BH-ASO's resolution of an appeal.

(3) **The BH-ASO grievance process.**

(a) A person or a person's authorized representative may file a grievance with a BH-ASO. A provider may not file a grievance on behalf of a person without the written consent of the person or the person's authorized representative.

(b) There is no right to an agency administrative hearing regarding the BH-ASO's decision on a grievance, since a grievance is not an action.

(c) The BH-ASO must notify a person of the decision regarding the person's grievance within five business days of the decision.

(4) **The BH-ASO appeal ~~((s))~~ process.**

(a) Parties to the appeal include:

(i) The person and the person's authorized or legal representative; or

(ii) The authorized representative of the deceased person's estate.

(b) A person, the person's authorized representative, or the provider acting with the person's written consent may appeal a BH-ASO action.

(c) A BH-ASO must treat oral inquiries about appealing an action as an appeal in order to establish the earliest possible filing date for the appeal.

(d) The BH-ASO must confirm any oral appeal in writing to the person or provider acting on behalf of the person.

(e) The person or provider acting on behalf of the person must file an appeal, either orally or in writing, within ~~((ninety))~~ sixty calendar days of the date on the BH-ASO's notice of action.

(f) The BH-ASO must acknowledge receipt of each appeal to both the person and the provider requesting the service within three calendar days of receipt. The appeal acknowledgment letter sent by the BH-ASO serves as written confirmation of an appeal filed orally by a person.

(g) If the person requests an expedited appeal for a crisis-related service, the BH-ASO must make a decision on whether to grant the person's request for expedited appeal and provide written notice as expeditiously as the person's health condition requires, within three calendar days after the BH-ASO receives the appeal. The BH-ASO must make reasonable efforts to provide oral notice.

(h) The BH-ASO appeal ~~((s))~~ process:

(i) Provides the person a reasonable opportunity to present evidence and allegations of fact or law in writing.

(ii) Provides the person and the person's authorized representative opportunity before and during the appeals process to examine the person's case file, including medical records and any other documents and records considered during the appeal ~~((s))~~ process free of charge.

(iii) If the person requests an expedited appeal, the BH-ASO must inform the person that it may result in the person having limited time to review records and prepare for the appeal.

(i) The BH-ASO ensures the staff making decisions on appeals:

(i) Were not involved in any previous level of review or decision making; and

(ii) Are health care professionals with appropriate clinical expertise in treating the person's condition or disease if deciding any of the following:

(A) An appeal of an action; or

(B) An appeal that involves any clinical issues.

(j) Time frames for standard resolution of appeals.

(i) For appeals involving termination, suspension, or reduction of previously authorized noncrisis services, the BH-ASO must make a decision within fourteen calendar days after receipt of the appeal.

(ii) If the BH-ASO cannot resolve an appeal within fourteen calendar days, the BH-ASO must notify the person that an extension is necessary to complete the appeal.

(k) Time frames for expedited appeals for crisis-related services or behavioral health prescription drug authorization decisions.

(i) The BH-ASO must resolve the expedited appeal and provide notice of the decision no later than three calendar days after the BH-ASO receives the appeal.

(ii) The BH-ASO may extend the time frame by fourteen additional calendar days if:

(A) The person requests the extension; or

(B) The BH-ASO determines additional information is needed and the delay is in the interests of the person.

(iii) If the BH-ASO denies a request for expedited resolution of a noncrisis related service appeal, it must:

(A) Process the appeal based on the time frame for standard resolution;

(B) Make reasonable efforts to give the person prompt oral notice of the denial; and

(C) Follow-up within two calendar days of the oral notice with a written notice of denial.

(l) Extension of a standard resolution or expedited appeal not requested by the person.

(i) The BH-ASO must notify the person in writing of the reason for the delay, if not requested by that person.

(ii) The extension cannot delay the decision beyond twenty-eight calendar days of the request for appeal, without the informed written consent of the person.

(iii) The appeal determination must not exceed forty-five calendar days from the day the BH-ASO receives the appeal.

(m) Notice of resolution of appeal. The notice of the resolution of the appeal must:

(i) Be in writing and be sent to the person and the provider requesting the services;

(ii) Include the results of the resolution process and the date it was completed; and

(iii) Include notice of the right to request an agency administrative hearing and how to do so as provided in the agency hearing rules in chapter 182-526 WAC, if the appeal is not resolved wholly in favor of the person.

(5) Agency administrative hearings.

(a) Only a person or a person's authorized representative may request an agency administrative hearing. A provider may not request a hearing on behalf of a person.

(b) If a person does not agree with the BH-ASO's resolution of an appeal, the person may file a request for an agency administrative hearing based on this section and the agency hearing rules in chapter 182-526 WAC.

(c) The BH-ASO is an independent party and responsible for its own representation in any agency administrative hearing, appeal to the board of appeals, and any subsequent judicial proceedings.

~~((d) A person must exhaust the appeals process within the BH-ASO's grievance system before requesting an administrative hearing with the agency.))~~

(6) **Effect of reversed resolutions of appeals.** If the BH-ASO's decision not to provide services is reversed on appeal by the BH-ASO or through a final order from the agency administrative hearing process, the BH-ASO must authorize or provide the disputed services promptly and as expeditiously as the person's health condition requires.

(7) ~~((Grievance system termination.))~~ **Available resources exhausted.** When available resources are exhausted, any appeals or administrative hearing process related to a request for authorization of a noncrisis service will be terminated, since noncrisis services cannot be authorized without funding, regardless of medical necessity.

WSR 17-08-093**PROPOSED RULES****HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed April 5, 2017, 9:12 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-09-024.

Title of Rule and Other Identifying Information: WAC 182-505-0100 Washington apple health—Monthly income standards based on the federal poverty level, 182-505-0210 Washington apple health—Eligibility for children, 182-505-0215 Washington apple health—Premium-based children's program—Purpose and scope, 182-505-0225 Premium requirements for premium-based health care coverage under programs included in apple health for kids, 182-505-0235 Washington apple health—Premium-based children's program—Order of payments, 182-505-0237 Premium-based Washington apple health for kids—Other rules that apply, 182-505-0240 Washington apple health—Parents and caretaker relatives, and 182-505-0300 Washington apple health—Hospital presumptive eligibility.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Pear Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 10, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, email arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on May 9, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed by May 5, 2017, email amber.lougheed@hca.wa.gov, (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is updating these rules to correct the federal poverty level and to eliminate the contradiction between WAC 182-505-0210 and long-term care rules.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1408; Implementation and Enforcement: Kevin Cornell, P.O. Box 45543 [45534], Olympia, WA 98504-5534, (360) 725-1423.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

April 5, 2017

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-505-0100 (~~Washington apple health~~) Monthly income standards (~~based on the federal poverty level (FPL)~~) for MAGI-based programs. (1) Each year, the federal government publishes new federal poverty level (FPL) income standards in the Federal Register found at <http://aspe.hhs.gov/poverty/index.shtml>.

(a) The income standards for the following Washington apple health (~~WAH~~) programs change on the first day of April every year based on the new FPL(~~(=~~

~~(a) WAH for~~), except for subsections (2) and (3) of this section.

(b) The agency determines income eligibility by comparing countable income as determined under WAC 182-509-0300 to the person's medical assistance unit (MAU) as determined under WAC 182-506-0010 and 182-506-0012.

(2) Parents and caretaker relatives (~~up to fifty-four percent of FPL (see)~~) under WAC 182-505-0240(~~(=~~ Persons enrolled in WAH for)) must have countable income equal to or below the following standards:

Medical Assistance Unit Size	1	2	3	4	5	6	7	8	9	10	11+
Income Standard	\$511	\$658	\$820	\$972	\$1,127	\$1,284	\$1,471	\$1,631	\$1,792	\$1,951	\$1,951

(3) Parents and caretaker relatives (~~((whose))~~) with earned income (~~((increases))~~) above (~~((this))~~) the limits in subsection (2) of this section are the only (~~((persons))~~) people who may be eligible for the (~~((WAH))~~) transitional medical program described in WAC 182-523-0100(~~(;~~

(b) Modified adjusted gross income (MAGI)-based WAH for adults up to one hundred thirty-three percent of FPL;

(c) WAH for pregnant women up to);

(4) Adults described in WAC 182-505-0250 who are not eligible under subsection (2) or (3) of this section must have countable income equal to or below one hundred thirty-three percent of the FPL.

(5) Pregnant people described in WAC 182-505-0115 must have countable income equal to or below one hundred ninety-three percent of the FPL(~~(;~~

(d) WAH for children up to);

(6) Children with countable income;

(a) Equal to or below two hundred ten percent of the FPL(~~(;~~ and

(c) Premium-based coverage under WAH for children over two hundred ten percent of FPL, but not over three hundred twelve percent of FPL.

(2) The agency uses the FPL income standards to determine the premium amount, if any, for a child.) as described in WAC 182-505-0210 (3)(a)(i) receive coverage at no cost.

(b) Greater than two hundred ten percent but equal to or less than three hundred twelve percent as described in WAC 182-505-0210 (3)(a)(ii) receive premium-based coverage. Premium amounts are described in WAC 182-505-0225.

AMENDATORY SECTION (Amending WSR 16-01-034, filed 12/8/15, effective 1/8/16)

WAC 182-505-0210 ((Washington apple health—)) Eligibility for children. ~~((1) Unless otherwise stated in this section, a child is a person age eighteen or younger (including the month the child turns nineteen). To be eligible for one of the Washington apple health (WAH) for kids programs, a child must:~~

(a) Be a resident of Washington state under WAC 182-503-0520 and 182-503-0525;

(b) Provide a Social Security number (SSN) under WAC 182-503-0515 unless exempt; and

(c) Meet any additional requirements listed for the specific program.

(2) Children younger than age one are eligible for WAH categorically needy (CN) coverage, without a new application, when they are born to a mother who is eligible for WAH:

(a) On the date of the newborn's birth, including a retroactive eligibility determination; or

(b) Based on meeting a medically needy (MN) spend-down liability with expenses incurred by the date of the newborn's birth.

(3) Children are eligible for WAH at no cost when they:

(a) Have countable family income that is no more than two hundred ten percent of the federal poverty level (FPL) under WAC 182-505-0100;

(b) Are currently eligible for supplemental security income (SSI); or

(c) Received SSI payments in August 1996 and would continue to be eligible for those payments except for the August 1996 passage of amendments to federal disability definitions.

(4) Children are eligible for premium-based WAH under WAC 182-505-0215 when they:

(a) Have countable family income that is not more than three hundred twelve percent of FPL under WAC 182-505-0100;

(b) Do not have other creditable health insurance under WAC 182-500-0020; and

(c) Pay the required monthly premiums under WAC 182-505-0225.

(5) Children are eligible for WAH home and community based waiver programs under chapter 182-515 WAC when they:

(a) Meet citizenship or immigration status under WAC 182-503-0535;

(b) Meet SSI-related eligibility requirements under chapter 182-512 WAC; and

(c) Meet program specific age requirements.

(6) Children are eligible for the WAH long-term care program when they meet the institutional program rules under chapter 182-513 or 182-514 WAC, and either:

(a) Reside or are expected to reside in a medical institution, intermediate care facility for the intellectually disabled (ICF/ID), hospice care center, or nursing home for thirty days or longer; or

(b) Reside or are expected to reside in an institution for mental diseases (IMD) (as defined in WAC 182-500-0050(1)) or inpatient psychiatric facility:

(i) For ninety days or longer and are age seventeen or younger; or

(ii) For thirty days or longer and are age eighteen through twenty-one.

(7) Children are eligible for the WAH-MN program under WAC 182-519-0100 when they:

(a) Meet citizenship or immigrant status under WAC 182-503-0535;

(b) Have countable family income that exceeds three hundred twelve percent of FPL under WAC 182-505-0100; or

(c) Have countable family income that is more than two hundred ten percent of FPL, but are not eligible for premium-based WAH as described in subsection (4) of this section because of creditable coverage; and

(d) Meet a spenddown liability under WAC 182-519-0110, if required.

~~(8) Children are eligible for WAH SSI-related programs under chapter 182-512 WAC when they:~~

~~(a) Meet citizenship or immigration status under WAC 182-503-0535;~~

~~(b) Meet SSI-related eligibility under chapter 182-512 WAC; and~~

~~(c) Meet an MN spenddown liability under WAC 182-519-0110, if required.~~

~~(9) Children who are not eligible for WAH under subsections (5) through (8) of this section because of their immigration status, are eligible for the WAH alien emergency medical program if they:~~

~~(a) Meet the eligibility requirements of WAC 182-507-0110;~~

~~(b) Have countable family income:~~

~~(i) That exceeds three hundred twelve percent of FPL under WAC 182-505-0100; or~~

~~(ii) That is more than two hundred ten percent of FPL, but they are not eligible for premium-based WAH, as described in subsection (4) of this section because of creditable coverage; and~~

~~(c) Meet a spenddown liability under WAC 182-519-0110, if required.~~

~~(10) Children who are in foster care or receive subsidized adoption services are eligible for coverage under the WAH foster care program described in WAC 182-505-0211.~~

~~(11) Children who are incarcerated in a public institution (as defined in WAC 182-500-0050(4)) that is not an IMD, are not eligible for any WAH program unless they are receiving inpatient hospital services outside of the public institution.~~

~~(12) Children who reside in a public institution that is an IMD are eligible for WAH under this section but are not eligible to receive inpatient hospital services outside of the IMD unless they are unconditionally discharged from the IMD before receiving the services.)~~ **(1) General eligibility.** For purposes of this section, a child must:

(a) Be a Washington state resident under WAC 182-503-0520 and 182-503-0525;

(b) Provide a Social Security number under WAC 182-503-0515, unless exempt; and

(c) Meet program-specific requirements.

(2) Deemed eligibility groups. A child is automatically eligible for coverage without an application if the child meets the program-specific requirements in (a) through (c) of this subsection.

(a) Newborn coverage. A child under age one is eligible for categorically needy (CN) coverage if the birth parent was eligible for Washington apple health on the date of delivery:

(i) Including a retroactive eligibility determination; or

(ii) By meeting a medically needy (MN) spenddown liability with expenses incurred by the date of the newborn's birth;

(b) Washington apple health for supplemental security income (SSI) recipients. A child who is eligible for SSI is automatically eligible for CN coverage under WAC 182-510-0001.

(c) Foster care coverage. A child age twenty and younger is eligible for CN coverage under WAC 182-505-0211 when the child is in foster care or receives subsidized

adoption services. For children who age out of the foster care program, see WAC 182-505-0211(3).

(3) MAGI-based eligibility groups. A child age eighteen and younger is eligible for CN coverage based on modified adjusted gross income (MAGI):

(a) At no cost when the child's countable income does not exceed the standard in WAC 182-505-0100 (6)(a);

(b) With payment of a premium when the child's countable income does not exceed the standard in WAC 182-505-0100 (6)(b), and the child meets additional eligibility criteria in WAC 182-505-0215;

(c) MAGI-based long-term care coverage. Under chapter 182-514 WAC, if the child needs long-term care services because the child resides or is expected to reside in an institution, as defined in WAC 182-500-0050, for thirty days or longer. An institutionalized child is eligible for coverage under the medically needy program if income exceeds the CN income standard for a person in an institution (special income level).

(4) Non-MAGI-based children's programs. The agency determines eligibility for the:

(a) Medically needy (MN) program according to WAC 182-510-0001(6) and 182-519-0100. A child age eighteen and younger is eligible if the child:

(i) Is not eligible for MAGI-based coverage under subsection (3) of this section;

(ii) Meets citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and

(iii) Meets any spenddown liability required under WAC 182-519-0110.

(b) SSI-related program. A child age eighteen and younger is eligible for CN or MN SSI-related coverage if the child meets:

(i) SSI-related eligibility under chapter 182-512 WAC;

(ii) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and

(iii) Any MN spenddown liability under WAC 182-519-0110.

(c) SSI-related long-term care program.

(i) A child age eighteen and younger is eligible for home and community based (HCB) waiver programs under chapter 182-515 WAC if the child meets:

(A) SSI-related eligibility under chapter 182-512 WAC;

(B) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d); and

(C) Program-specific age and functional requirements under chapters 388-106 and 388-845 WAC.

(ii) A child age eighteen and younger who resides or is expected to reside in a medical institution as defined in WAC 182-500-0050 is eligible for institutional medical under chapter 182-513 WAC if the child meets:

(A) Citizenship or immigration requirements under WAC 182-503-0535 (2)(a), (b), (c), or (d);

(B) Blindness or disability criteria under WAC 182-512-0050; and

(C) Nursing facility level of care under chapter 388-106 WAC.

(5) Alien emergency medical program. A child age twenty and younger who does not meet the eligibility requirements for a program described under subsections (2) through

(4) of this section is eligible for the alien emergency medical (AEM) program if the child meets:

(a) The eligibility requirements of WAC 182-507-0110; and

(b) MN spenddown liability, if any, under WAC 182-519-0110.

(6) Other provisions.

(a) A child residing in an institution for mental disease (IMD) as defined in WAC 182-500-0050(1) is not eligible for inpatient hospital services, unless the child is unconditionally discharged from the IMD before receiving the services.

(b) A child incarcerated in a public institution as defined in WAC 182-500-0050(4) is only eligible for inpatient hospital services.

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-505-0215 Children's Washington apple health~~(—Premium-based children's program—Purpose and scope)~~ **with premiums.** ~~((The medicaid agency administers the programs included in Washington apple health (WAH) for kids that provide premium-based coverage through a combination of state and federal funding sources as described below:~~

(1) Federally matched health care coverage as authorized by Title XXI of the Social Security Act state children's health insurance program (CHIP) and RCW 74.09.450 for citizen and federally qualified immigrant children whose family income is above two hundred ten percent of the federal poverty level (FPL) but is not above three hundred twelve percent FPL.

(2) State funded health care coverage for children with family income above two hundred ten percent FPL, but not above three hundred twelve percent FPL, who are ineligible for federally matched health care coverage due to immigration status-)) (1) A child is eligible for Washington apple health with premiums if the child:

(a) Meets the requirements in WAC 182-505-0210(1);

(b) Has countable income below the standard in WAC 182-505-0100 (6)(b); and

(c) Pays the required premium under WAC 182-505-0225, unless the child is exempt under WAC 182-505-0225 (2)(c).

(2) A child is not eligible for Washington apple health with premiums if the child:

(a) Is eligible for no-cost Washington apple health;

(b) Has creditable health insurance coverage as defined in WAC 182-500-0020; or

(c) Is eligible for public employees benefits board health insurance coverage based on a family member's employment with a Washington state agency, or a Washington state university, community, or technical college.

AMENDATORY SECTION (Amending WSR 12-13-056, filed 6/15/12, effective 7/1/12)

WAC 182-505-0225 ~~((Premium requirements for premium-based health care coverage under programs included in apple health for kids.))~~ **Children's Washington apple health with premiums—Calculation and deter-**

mination of premium amount. (1) For the purposes of this chapter, "premium" means an amount paid for health care coverage under ~~((programs included in apple health for kids as described in WAC 388-505-0210 (4) and (5).~~

(2) ~~Payment of a premium is required as a condition of eligibility for premium-based coverage under programs included in apple health for kids, as described in WAC 388-505-0210 (4) and (5), unless the child is:~~

(a) Pregnant; or

(b) An American Indian or Alaska native.

(3) ~~The premium requirement begins the first of))~~ WAC 182-505-0215.

(2) Premium requirement. Eligibility for Washington apple health premium-based program under WAC 182-505-0215 requires payment of a monthly premium.

(a) The first monthly premium is due in the month following the determination of eligibility.

(b) There is no premium requirement for ~~((medical))~~ health care coverage received in ~~((a))~~ the month ~~((or months before the determination of))~~ eligibility is determined or in any prior month.

(c) A child who is American Indian or Alaska native is exempt from the monthly premium requirement.

(3) Monthly premium amount.

~~((4))~~ (a) The premium amount for the medical assistance unit ~~((AU))~~ (MAU) is based on ~~((the net))~~ countable income ~~((as described in WAC 388-450-0210))~~ under chapter 182-509 WAC and the number of ~~((children))~~ people in the ~~((AU. If the household includes more than one AU, the premium amount billed for the AUs may be different amounts))~~ MAU under chapter 182-506 WAC.

~~((5))~~ (b) The premium amount is ~~((limited to a monthly maximum of two premiums for households with two or more children.~~

(6) The premium amount for each U.S. citizen or lawfully present alien child described in WAC 388-505-0210(4) is:

(a) Twenty dollars per month per child for households with income above two hundred percent FPL, but not above two hundred and fifty percent FPL; or

(b) Thirty dollars per month per child for households with income above two hundred and fifty percent FPL, but not above three hundred percent FPL.

(7) The premium amount for each noncitizen child described in WAC 388-505-0210(5) who is not a lawfully present qualified or nonqualified alien is no greater than the average of the state share of the per capita cost for state-funded children's health coverage. The premium amount is set every two years, based on the forecasted per capita costs for that period.

(8) All children in an AU are ineligible for health care coverage when the head of household fails to pay required premium payments for three consecutive months.

(9) When the agency or the agency's designee terminates the medical coverage of a child due to nonpayment of premiums, the child's eligibility is restored only when the:

(a) Past due premiums are paid in full prior to the end of the certification period; or

(b) The child becomes eligible for coverage under a non-premium-based CN health care program.

~~(10)) as follows:~~

~~(i) If the MAU's countable income exceeds two hundred ten percent of the federal poverty level (FPL) but does not exceed two hundred sixty percent of the FPL, the monthly premium for each child is \$20.~~

~~(ii) If the MAU's countable income exceeds two hundred sixty percent of the FPL but does not exceed three hundred twelve percent of the FPL, the monthly premium for each child is \$30.~~

~~(iii) The medicaid agency charges a monthly premium for no more than two children per household.~~

~~(iv) Payment of the full premium is required. Partial payments cannot be designated for a specific child or month.~~

~~(v) Any third party may pay the premium on behalf of the household. Failure of a third party to pay the premium does not eliminate the obligation of the household to pay past due premiums.~~

~~(c) A change that affects the premium amount takes effect the month after the change is reported.~~

~~(4) Nonpayment of premiums.~~

~~(a) Premium-based coverage ends for all children in the household if the required premiums are not paid for three consecutive months.~~

~~(b) Premium-based coverage is restored back to the month coverage ended if the unpaid premiums are fully paid before the certification period ends.~~

~~(c) The household may reapply for premium-based coverage ninety days after the coverage ended for nonpayment.~~

~~(d) The agency ((or the agency's designee)) writes off past-due premiums after twelve months.~~

~~((11) If all past due premiums are paid after the certification period is over:~~

~~(a) Eligibility for prior months is not restored; and~~

~~(b) Children are not eligible for premium based coverage under apple health for kids until:~~

~~(i) The month the premiums are paid or the agency writes off the debt; and~~

~~(ii) The family reapplies and is found eligible.~~

~~(12) A family cannot designate partial payment of the billed premium amount as payment for a specific child in the AU. The full premium amount is the obligation of the head of household of the AU. A family can decide to request health care coverage only for certain children in the AU, if they want to reduce premium obligation.~~

~~(13) A change that affects the premium amount is effective the month after the change is reported and processed.~~

~~(14) A sponsor or other third party may pay the premium on behalf of the child or children in the AU. The premium payment requirement remains the obligation of head of household of the AU. The failure of a sponsor or other third party to pay the premium does not eliminate the obligation of the head of household to pay past due premiums.)~~

AMENDATORY SECTION (Amending WSR 14-16-052, filed 7/29/14, effective 8/29/14)

WAC 182-505-0240 (~~Washington apple health~~) Parents and caretaker relatives. (1) A person is eligible for Washington apple health ((~~WAH~~)) categorically needy (CN) coverage when ((~~he or she~~)) the person:

(a) Is a parent or caretaker relative of a dependent child who meets the criteria described in WAC 182-503-0565(2);

(b) Meets citizenship and immigration status requirements described in WAC 182-503-0535;

(c) Meets general eligibility requirements described in WAC 182-503-0505; and

(d) Has countable income below ((~~fifty-four percent of the federal poverty level (FPL)~~)) the standard in WAC 182-505-0100(2).

(2) To be eligible for ((~~WAH~~)) coverage as a caretaker relative, a person must be related to a dependent child who meets the criteria described in WAC 182-503-0565(2).

(3) A person must cooperate with the state of Washington in the identification, use and collection of medical support from responsible third parties as described in WAC 182-503-0540.

(4) A person who does not cooperate with the requirements in subsection (3) of this section is not eligible for ((~~WAH~~)) coverage.

AMENDATORY SECTION (Amending WSR 15-06-039, filed 2/26/15, effective 3/29/15)

WAC 182-505-0300 (~~Washington apple health~~) Hospital presumptive eligibility. (1) **Purpose.** The hospital presumptive eligibility (HPE) program provides temporary Washington apple health ((~~WAH~~)) coverage to HPE-eligible persons who enroll through an HPE-qualified hospital.

(2) **HPE-eligible persons.** To be HPE-eligible:

(a) A person must:

(i) Be younger than age sixty-five; and

(ii) Meet the eligibility requirements for one or more of the following programs:

(A) ((~~WAH~~)) Washington apple health for pregnant women (chapter 182-505 WAC);

(B) ((~~WAH~~)) Washington apple health for kids (chapter 182-505 WAC);

(C) ((~~WAH~~)) Washington apple health for foster care (chapter 182-505 WAC);

(D) ((~~WAH~~)) Washington apple health for parents and caretaker relatives (chapter 182-505 WAC);

(E) ((~~WAH~~)) Washington apple health for adults (chapter 182-505 WAC); or

(F) TAKE CHARGE for family planning services (chapter 182-532 WAC).

(b) A person must not:

(i) Be ((~~a WAH~~)) an apple health beneficiary;

(ii) Be a supplemental security income beneficiary; or

(iii) Have received HPE coverage within the preceding twenty-four months.

(3) **HPE-qualified hospitals.** To be HPE-qualified, a hospital must:

(a) Operate in Washington state;

(b) Submit a signed core provider agreement (CPA) to the agency;

- (c) Submit a signed HPE agreement to the agency;
- (d) Comply with the terms of the CPA and HPE agreements;
- (e) Determine HPE eligibility using only those employees who have successfully completed the agency's HPE training;
- (f) Agree to provide HPE-application assistance to anyone who requests it; and
- (g) Agree to be listed on the agency's web site as an HPE-application assistance provider.

(4) Limitations.

(a) An HPE-qualified hospital must attempt to help the person complete a regular ((WAH)) apple health application before filing an HPE application. If the person cannot indicate whether ((he or she)) they expect((s)) to file a federal tax return or be claimed as a tax dependent, the HPE-qualified hospital may treat the person as a nonfiler under WAC 182-506-0010 (5)(c) for HPE purposes.

(b) HPE coverage begins on the earlier of:

- (i) The day the HPE-qualified hospital determines the person is eligible; or
- (ii) The day the HPE-qualified hospital provides a covered medical service to the person, but only if the hospital determines the person is eligible and submits the decision to the agency no later than five calendar days after the date of service.

(c) HPE coverage ends on the earlier of:

- (i) The last day of the month following the month in which HPE coverage began; or
 - (ii) The day the agency determines the person is eligible for other ((WAH)) apple health coverage.
- (d) HPE coverage does not qualify a person for continuous eligibility under WAC 182-504-0015.
- (e) If HPE coverage is based on pregnancy, the pregnant ((woman)) person is eligible for HPE coverage only once for that pregnancy.

(f) The HPE program covers only those services included in the programs listed in subsection (2)(e) of this section, except that pregnancy-related services are limited to ambulatory prenatal care.

(g) A child born to a ((woman)) person with HPE coverage is ineligible for ((WAH)) apple health under WAC 182-505-0210(2). An HPE-qualified hospital must complete a separate HPE determination for the newborn child.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- | | |
|------------------|---|
| WAC 182-505-0235 | Washington apple health—Premium-based children's program—Order of payments. |
| WAC 182-505-0237 | Premium-based Washington apple health for kids—Other rules that apply. |

WSR 17-08-094
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 16-13—Filed April 5, 2017, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-02-010.

Title of Rule and Other Identifying Information: Chapter 173-321 WAC, Public participation grants (PPG), the rule establishes eligibility requirements and funding criteria for grants authorized by chapter 70.105D RCW, Model Toxics Control Act.

Hearing Location(s): Department of Ecology, 300 Desmond Drive, ROA-32, Lacey, WA 98503, on May 15, 2017, at 1:30 p.m.

Date of Intended Adoption: June 28, 2017.

Submit Written Comments to: Lynn Gooding; by mail Department of Ecology, Waste 2 Resources Program, P.O. Box 47600, Olympia, WA 98504-7600; in person Department of Ecology, Waste 2 Resources Program, 300 Desmond Drive, Lacey, WA 98503; online at <http://wt.ecology.commentinput.com/?id=rt46y>; by May 22, 2017.

Assistance for Persons with Disabilities: Contact waste 2 resources program reception at (360) 407-6900, by May 11, 2017, TTY (888) 833-6341 or 711 relay service.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2016, ecology obtained an independent audit of our public participation grants program. Changes are either specific audit recommendations or the program's recommendations based on experience. Updating the rule now will allow us to apply these changes to grants in the 2017-19 biennium.

As directed under chapter 70.105D RCW, ecology has the authority to administer a program for grants to "persons who may be adversely affected by a release or threatened release of a hazardous substance and not-for-profit public interest groups." Grants are used to "facilitate public participation in the investigation and remediation of a release or threatened release of a hazardous substance and to implement the state's solid and hazardous waste management priorities."

The rule currently limits applicants to "groups of three or more unrelated persons or not-for-profit public interest groups." The proposed rule language removes the "three or more" requirement and allows "*individuals* adversely affected by a release or threatened release" to apply for a grant. Not-for-profit public interest groups are still eligible.

Chapter 173-321 WAC directs that priority consideration for grant funding will be given to: (1) Applicants requesting a hazardous substance release grant; (2) new applicants; and (3) applicants that demonstrate the ability to provide accurate technical information on complex waste management issues.

Proposed changes include amending "new applicants" to applicants who "have not received funding in the last two biennia." This doesn't change the intent of this priority which was to encourage new grant recipients. Another proposed change is to eliminate (3) and replace it with applicants who "facilitate public participation in highly impacted or low-income communities." This change acknowledges ecology's

commitment to prioritize environmental justice concerns in the program.

The current rule excludes federally recognized tribes from eligibility, but grants have been awarded in the past to their not-for-profit organizations. The proposed rule language allows for tribal not-for-profit organizations to apply for grants.

Organizations "sustained by public funding" are currently excluded in the rule. Since local, state, and federal governments have their own specific exclusions, it is unclear what organizations are covered here. This exclusion has been removed from the proposed rule.

Public participation grants may be funded up to \$60,000 per year and renewed annually. The current rule requires that a new application be submitted to renew a grant. Proposed rule changes eliminate the requirement to submit a new application.

Additionally, proposed changes include, but are not limited to, the application evaluation criteria, eligible costs, and agency reporting requirements.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: Chapter 70.105D RCW, Model Toxics Control Act, including RCW 70.105D-.070 funding the public participation grants program, and RCW 70.105D.070(8) authorizing the department to adopt rules for grant issuance and performance.

Statute Being Implemented: Chapter 70.105D RCW, Model Toxics Control Act.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lynn Gooding, Ecology Headquarters, Lacey, (360) 407-6062.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Ecology has analyzed the compliance costs of this rule making in previous chapters of this document. Based on this analysis we determine the proposed rule does not impose more than minor costs on businesses in an industry, as the proposed rule amendments are not likely to impose any additional costs on businesses. Therefore, we are not required to prepare a small business economic impact statement (RCW 19.85.030 (1)(a)).

A cost-benefit analysis is required under RCW 34.05-.328. A preliminary cost-benefit analysis may be obtained by contacting Kirsten Miller, Washington State Department of Ecology, Waste 2 Resources Program, P.O. Box 47600, Lacey, WA 98504-7600, phone (360) 407-6707, fax (360) 407-6102, email kirsten.miller@ecy.wa.gov.

April 4, 2017
Polly Zehm
Deputy Director

AMENDATORY SECTION (Amending WSR 01-05-024, filed 2/12/01, effective 3/15/01)

WAC 173-321-010 Purpose and authority. (1) The department is directed by ~~((the))~~ chapter 70.105D RCW, Hazardous waste cleanup—Model Toxics Control Act to pro-

vide grants up to sixty thousand dollars to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest groups. ~~The purpose of these grants ((shall be used)) is to facilitate public participation in the investigation and ((remediation)) remedying of a release or threatened release of a hazardous substance and to facilitate ((public participation in the)) implementation of the state's solid and hazardous waste management priorities.~~

(2) The department will give priority consideration for public participation grant funding to applicants who meet any of the following criteria:

(a) Facilitate public participation in hazardous substance release sites;

(b) Facilitate public participation in highly impacted or low-income communities;

(c) Have not received funding in the last two biennia.

(3) The purpose of this chapter is to ~~((set forth))~~ provide eligibility criteria and funding requirements for grant projects.

AMENDATORY SECTION (Amending WSR 01-05-024, filed 2/12/01, effective 3/15/01)

WAC 173-321-020 Definitions. As used in this chapter:

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology or ~~((such person authorized to act for the director))~~ designee.

(3) "Emergency" means an occurrence warranting public participation ~~((which))~~ that occurs after the deadline for grant applications and before the opening of a new grant application period, such as:

(a) An unforeseen release of a hazardous substance at an existing site or a newly discovered site;

(b) An unanticipated decision by the department concerning remedial action at a site or publication of a remedial ~~((investigation, feasibility))~~ investigation/feasibility study or risk assessment; or

(c) Discovery of a technical assistance need ~~((which))~~ that could not have been foreseen before the grant application deadline.

(4) "Emergency grant" means a public participation grant in the hazardous substance release category for an emergency as defined in this section.

(5) ~~(("Expendable personal property" means all tangible personal property other than nonexpendable personal property.))~~ "Equipment" means tangible, personal property having a useful life of more than one year and an acquisition cost of more than five thousand dollars per functional unit.

(6) "Facility" means:

(a) Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, waste pile, pond, lagoon, impoundment, ditch, landfill, tank, storage container, motor vehicle, rolling stock, vessel, or aircraft; or

(b) Any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

(7) "Grant applicant" means any ~~((person))~~ individual or organization requesting a public participation grant.

(8) "Hazardous substance" means~~(:~~

~~(a) Any dangerous or extremely hazardous waste as defined in RCW 70.105.010 (5) and (6) or any dangerous or extremely hazardous waste designated by rule pursuant to chapter 70.105 RCW;~~

~~(b) Any hazardous substance as defined in RCW 70.105.010(14) or any hazardous substance as defined by rule pursuant to chapter 70.105 RCW;~~

~~(c) Any substance that, on March 1, 1989, is a hazardous substance under 101 (14) of the Federal Cleanup Law, 42 U.S.C. Sec. 960(14);~~

~~(d) Petroleum or petroleum products; and~~

~~(e) Any substance or category of substances including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment. Except that:~~

~~The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local laws.)~~ any hazardous substance as defined in chapter 70.105 RCW.

(9) "Hazardous waste management priorities" as defined in ~~((RCW 70.105.150 are the priorities in the management of hazardous waste which should be followed))~~ chapter 70.105 RCW are in descending order ((as applicable)):

(a) Waste reduction;

(b) Waste recycling;

(c) Physical, chemical, and biological treatment;

(d) Incineration;

(e) Solidification/stabilization treatment;

(f) Landfill.

(10) ~~(("Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of three hundred dollars or more per unit.~~

~~((11))~~ "Highly impacted community" means a community that the department of health has determined is likely to bear a disproportionate burden of public health and economic risks from environmental pollution.

~~((11))~~ "Individual" means a natural person.

~~((12))~~ "Lobbying" means attempting to influence the passage or defeat of any legislation by the legislature or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act, chapter 34.05 RCW. Lobbying does not include an organization's act of communicating with the members of that organization unless the communication is for the purpose of influencing legislation.

~~((13))~~ "Low-income" means households where the household income is less than or equal to twice the federal poverty level.

~~((14))~~ "Low-income community" means a community where the proportion of an area's low-income population is greater than the comparison area (for example, city, county, state).

~~((15))~~ "Not-for-profit public interest organization" means any corporation, trust, association, cooperative, or other organization ((which)) that:

~~((15))~~ (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

~~((15))~~ (b) Is not organized primarily for profit; and

~~((15))~~ (c) Uses its net proceeds to maintain, improve, and/or expand its operations.

~~((12))~~ ~~((12))~~ "Owner/operator" means any person defined as an owner or operator under RCW 70.105D.020 (12).

~~((13))~~ ~~((13))~~ "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

~~((14))~~ ~~((14))~~ "Personal property" means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence), such as patents, inventions, and copyrights.

~~((15))~~ ~~((15))~~ "Potentially liable person" means any person ((whom)) the department finds, based on credible evidence, to be liable under RCW 70.105D.040. ((The department shall give notice to any such person and allow an opportunity for comment before making the finding, unless an emergency requires otherwise.

~~((16))~~ ~~((16))~~ "Real property" means land, ((land)) improvements, structures, and ((appurtenances thereto, excluding moveable machinery and equipment)) additional pieces associated to them.

~~((17))~~ ~~((17))~~ "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.

~~((18))~~ ~~((18))~~ "Remedy((, remediation,)) or remedial action" means any action or expenditure consistent with the purposes of this chapter to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities ((with respect to)) of any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

~~((19))~~ ~~((19))~~ "Solid waste management priorities" as defined in chapter 70.95 RCW are ((the priorities in the management of solid waste which should be followed)) in order of descending priority ((as applicable)):

~~((19))~~ (a) Waste reduction;

~~((19))~~ (b) Recycling with source separation of recyclable materials as the preferred method;

~~((19))~~ (c) Energy recovery, incineration, or landfill of separated waste;

~~((19))~~ (d) Energy recovery, incineration, or landfill of mixed waste.

~~((20))~~ ~~((20))~~ "Supplies" means all tangible personal property other than tools or equipment necessary to carry out a scope of work with a useful life of less than one year and an acquisition cost of less than one thousand dollars.

~~((21))~~ ~~((21))~~ "Tools" means tangible, personal property having a useful life of more than one year and an acquisition cost of less than five thousand dollars per functional unit.

AMENDATORY SECTION (Amending WSR 89-21-072, filed 10/17/89, effective 11/17/89)

WAC 173-321-030 Relationship to other legislation and administrative rules. (1) The individuals or organizations receiving a grant ~~((shall))~~ must comply fully with all applicable federal, state, and local laws, orders, regulations, and permits.

(2) Nothing in this chapter ~~((shall))~~ will influence, affect, or modify existing department programs, regulations, or enforcement of applicable laws relating to solid and hazardous waste management and cleanup.

(3) All grants ~~((shall be))~~ are subject to the existing, applicable accounting and auditing requirements of state laws and regulations.

(4) The department will prepare ~~((a guidance manual))~~ guidelines to facilitate compliance with these regulations. Guidelines will be updated each biennium.

AMENDATORY SECTION (Amending WSR 01-05-024, filed 2/12/01, effective 3/15/01)

WAC 173-321-040 Applicant eligibility. (1) Public participation grants ~~((may only be awarded to groups of three or more unrelated persons or))~~ are awarded only to individuals who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations.

(2) ~~((All applicants must demonstrate their ability to appropriately administer grant funds.~~

(3) ~~Applications for a hazardous substance release grant, including emergency grants, must include information on:~~

~~(a) The nature of the release or threatened release of the hazardous substance;~~

~~(b) The location of the release or threatened release of the hazardous substance;~~

~~(c) How the applicant group may be adversely affected by the release or threatened release of the hazardous substance;~~

~~(d) How the applicant group will promote public participation in the investigation or remediation of the release or threatened release of the hazardous substance;~~

~~(e) A complete project description;~~

~~(f) How the applicant group represents the environmental, health, and economic interests of individuals affected by the release or threatened release of the hazardous substance;~~

~~(g) The applicant group's history and experience, if any, in conducting activities similar to those described in the grant application;~~

~~(h) For emergency grants, a description of why an emergency exists, as defined in WAC 173-321-020(3); and~~

~~(i) Any other information specified by the department as needed to award a grant.~~

~~(4) Applications for a waste management priorities grant must include information on:~~

~~(a) How the applicant group will promote or implement the state solid or hazardous waste management priorities;~~

~~(b) How the applicant group will promote public participation in the grant project described in the application;~~

~~(c) A complete project description;~~

~~(d) The applicant group's history and experience, if any, in conducting activities similar to those described in the grant application;~~

~~(e) Any other information specified by the department as needed to award a grant.~~

~~(5)) The following ((persons or groups of persons shall be)) individuals or organizations are ineligible for grant funding:~~

~~(a) Any person potentially liable, as defined under RCW 70.105D.040;~~

~~(b) Local governments including any political subdivision, regional governmental unit, district, municipal or public corporation, including cities, towns, and counties. The term encompasses but does not refer specifically to the departments within a city, town, or county;~~

~~(c) Federal and state governments, or agencies thereof;~~

~~(d) Federally recognized Indian tribes, as a governing body((-)) with the following exceptions:~~

~~(i) Individual tribe members ((of three or more persons are eligible to apply for a public participation grant;~~

~~(e) Organizations sustained by public funding;~~

~~(f)) who may be adversely affected by the release or threatened release of a hazardous substance; and~~

~~(ii) Not-for-profit tribal organizations.~~

~~(e) Public and private universities; and~~

~~((g)) (f) Any organization located outside of Washington state boundaries.~~

~~((6) Grant applications failing to qualify may be resubmitted.) (g) Any individual or organization that does not meet the eligibility requirements of subsection (1) of this section.~~

AMENDATORY SECTION (Amending WSR 01-05-024, filed 2/12/01, effective 3/15/01)

WAC 173-321-050 Application evaluation criteria.

(1) The department will provide public notice of the application period, deadlines, and guidelines. The department will provide multi-lingual and culturally appropriate outreach to potential grant applicants.

(2) Applications will only be accepted through the department's online application system.

(3) Grant applications will be evaluated by the department. To be funded, applications must include all required elements as outlined in the guidelines.

(4) Except for emergency grants ((which will be reviewed and evaluated by the department within twenty working days of receipt of the application, all other)), grant applications must be received ((will be reviewed and evaluated by the department within thirty working days after the close of the regular grant application period. Incomplete applications will not be evaluated)) by the application deadline in order to be considered.

(5) Applications will be ranked ((according to how each application meets the criteria set forth below)) by the numerical value calculated using evaluation criteria set out in the guidelines provided to potential grant applicants.

(6) Grants will be awarded, within the limits of available funds, to the highest ranking applications. The department may fund all or portions of eligible grant applications.

~~((2) Priority consideration for public participation grant funding will be given to:~~

~~(a) Applicants requesting a hazardous substance release grant;~~

~~(b) New applicants; and~~

~~(c) Applicants that demonstrate the ability to provide accurate technical information on complex waste management issues.~~

~~(3) General criteria. All public participation grants will be evaluated against the following criteria:~~

~~(a) The type and extent of the applicant group's past history and experience conducting activities similar to those described in the grant application;~~

~~(b) The group's basic funding, with consideration given to groups with limited resources;~~

~~(c) The group's ability to appropriately manage grant funds;~~

~~(d) Except for emergency grants, if more than one group is interested in the same project, priority consideration will be given to groups who consolidate;~~

~~(e) Availability of funding sources for the project;~~

~~(f) Past performance under a public participation grant;~~

~~(g) The group's ability to define the environmental issue and identify what changes will occur in the problem as a result of the project; and~~

~~(h) Demonstration of the use of Bennett's hierarchy or similar methodology with a focus on outcome and clear commitment to follow through to end results.~~

~~(4) Special criteria:~~

~~(a) Hazardous substance release grants. Hazardous substance release grants, including emergency grants, will be evaluated against the following criteria:~~

~~(i) The degree to which the applicant group may be adversely or potentially adversely impacted by the release or threatened release of the hazardous substance, including but not limited to adverse or potential adverse impacts to surface and drinking waters, soils, flora or fauna, species diversity, air quality, property values, marketability of agricultural crops, and recreational areas;~~

~~(ii) The degree to which the applicant group represents the environmental, health, and economic interests of individual group members;~~

~~(iii) The degree to which the proposed project will promote public participation in the investigation or remediation of the release or threatened release of the hazardous substance.~~

~~(b) Waste management priorities grants. Waste management priorities grants will be evaluated against the following criteria:~~

~~(i) The degree to which the proposed public participation activity will promote or implement the state solid or hazardous waste management priorities;~~

~~(ii) The degree to which the proposed project will facilitate public understanding of the state solid and hazardous waste management priorities;~~

~~(iii) The degree to which the proposed public participation activities are consistent with or improve upon existing solid or hazardous waste management plans.)) (7) The department will not fund applications failing to meet the~~

grant eligibility criteria and may reopen the application period for additional applications.

(8) The evaluation criteria will include at a minimum:

(a) Whether the applicant meets one or more of the priority considerations outlined in WAC 173-321-010(2);

(b) The extent to which the individual applicant or the community served by the not-for-profit organization applicant is impacted by the hazardous substance release or the waste management issue addressed by the project;

(c) The extent to which the applicant has demonstrated the ability to manage grant funds in compliance with applicable requirements and in a cost-effective manner;

(d) The extent to which the applicant has demonstrated the ability to measure the project's outcomes;

(e) The applicant's past performance under a public participation grant, including whether the applicant appropriately managed grant funds, complied with grant requirements, and was able to demonstrate achievement of project goals. Only past grant recipients will be evaluated under this criterion.

(9) The department's announcement of the grants awarded will include:

(a) The public notice used to announce the application period;

(b) A ranked list of all applicants and a description of their proposed projects;

(c) How the applications were evaluated; and

(d) The amount awarded to each recipient.

AMENDATORY SECTION (Amending WSR 01-05-024, filed 2/12/01, effective 3/15/01)

WAC 173-321-060 Eligible project costs. (1) Eligible project costs ~~((for substance release grants shall include but not be limited to))~~ include costs associated with:

~~(a) Hiring technical assistants to review and interpret documents;~~

~~(b) Public involvement and public education activities;~~

~~(c) Reviewing specific plans for environmental testing and analysis, reviewing reports summarizing the results of such plans and making recommendations for modifications to such plans((-);~~

~~(d) ((Expendable personal property;~~

~~(e) Other public participation activities as determined by the department on a case-by-case basis.~~

~~(2) Eligible project costs for waste management priority grants shall include but not be limited to:~~

~~(a)) Assisting in developing and implementing programs that promote or improve state or local solid or hazardous waste management plans;~~

~~((b)) (c) Assisting in developing programs or activities that promote and are consistent with the state solid or hazardous waste management priorities;~~

~~((c) Expendable personal property;~~

~~(d)) (f) Other ((public participation)) activities as determined by the department on a case-by-case basis;~~

(g) Supplies and tools necessary to the foregoing activities. All costs must be in compliance with the department's "Administrative Requirements for Recipients of Ecology Grants and Loans" and the funding program guidelines.

~~((3))~~ (2) Ineligible projects and grant costs ~~((shall))~~ include but are not ~~((be))~~ limited to:

- (a) Independently collecting or analyzing samples at a facility ~~((sites))~~;
- (b) Hiring attorneys for legal actions against potentially liable persons, facility owners, or the department. Applicants ~~((who receive a grant award shall))~~ must notify the department if legal action is intended or taken on the subject of the grant project ~~((or application))~~;
- (c) ~~((Legislative))~~ Lobbying ~~((activities))~~;
- (d) Real property;
- (e) ~~((Nonexpendable personal property))~~ Equipment.

AMENDATORY SECTION (Amending WSR 01-05-024, filed 2/12/01, effective 3/15/01)

WAC 173-321-070 Grant funding. (1) The department ~~((may fund up to one hundred percent of eligible project costs))~~ will determine the amount of funding available for public participation grants and establish an application and funding cycle on a biennial basis.

(2) The maximum grant allowance ~~((shall be))~~ is sixty thousand dollars per year.

(3) Public participation grants may be renewed annually. ~~((A new grant application must be submitted to be evaluated and ranked for additional funding.~~

~~(4) The department reserves the right to refuse funding to any and all applications failing to meet the grant eligibility criteria and may reopen the application period for additional applications.)~~ Grant renewal criteria will be outlined in the program guidelines.

(4) If the total amount of funding requested by all applicants exceeds the biennial budget, the department may limit the number of grants awarded to individual persons or organizations, regardless of ranking.

(5) Grant funds that are not used by a recipient will be offered to other grant recipients or applicants based on the original application ranking. However, additional funding cannot result in a grant that exceeds sixty thousand dollars per year.

(6) The department will produce a report at the close of the biennium outlining the grant program performance. The report will include, at minimum, the type and location of grant projects and the outcomes achieved.

AMENDATORY SECTION (Amending WSR 01-05-024, filed 2/12/01, effective 3/15/01)

WAC 173-321-080 Grant administration. (1) ~~((The department shall establish grant application funding cycles each year.~~

~~(2) Public notice of application funding cycles shall be published statewide.~~

~~(3) A grant application package will be sent to all persons interested in applying for public participation grants. Grant application packages will include notice of grant application deadlines, grant guidelines, and application forms.~~

~~(4) Grant applications will be evaluated by the department. To be funded, applications must include all required elements as outlined in the guidelines.~~

~~(5))~~ The obligation of the department to make grant payments is contingent upon the availability of funds through legislative appropriation, and such other conditions not reasonably foreseeable which may preclude awarding such grants.

~~((6) The department, on at least a biennial basis, will determine the amount of funding available for public participation grants and establish an application and funding cycle. The minimum amount of money available for public participation grants established by the Model Toxics Control Act shall be one percent of the moneys deposited into the state and the local toxics control accounts.~~

~~(7))~~ (2) The department ~~((shall))~~ is not ~~((be held))~~ responsible for payment of salaries, consultant fees, or other costs related to a contract of the grantee.

~~((8) To the extent that the Constitution and laws of the state of Washington permit,))~~ (3) The grantee ((shall)) must indemnify and hold the department harmless((;)) from and against((;)) any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee arising out of a grant contract.

~~((9))~~ (4) All grants under this chapter ((shall)) must be consistent with the department's "Administrative Requirements for Recipients of Ecology Grants and Loans" ((WDOE publication No. 91-18, revised October 2000)) and the funding program guidelines.

WSR 17-08-095

PROPOSED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed April 5, 2017, 10:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-20-085.

Title of Rule and Other Identifying Information: New WAC 182-513-1600 Medicaid alternative care (MAC)—Overview, 182-513-1605 Medicaid alternative care (MAC)—Eligibility, 182-513-1610 Tailored supports for older adults (TSOA)—Overview, 182-513-1615 Tailored supports for older adults (TSOA)—General eligibility, 182-513-1620 Tailored supports for older adults (TSOA)—Presumptive eligibility, 182-513-1625 Tailored supports for older adults (TSOA)—Applications, 182-513-1630 Tailored supports for older adults (TSOA)—Rights and responsibilities, 182-513-1635 Tailored supports for older adults (TSOA)—Income eligibility, 182-513-1640 Tailored supports for older adults (TSOA)—Resource eligibility, 182-513-1645 Tailored supports for older adults (TSOA)—Certification periods, 182-513-1650 Tailored supports for older adults (TSOA)—Changes of circumstances requirements, 182-513-1655 Tailored supports for older adults (TSOA)—Renewals and 182-513-1660 Tailored supports for older adults (TSOA)—Spousal impoverishment; and amending WAC 182-503-0510 Washington apple health—Program summary, 182-527-2734 Liens during a client's lifetime, and 182-527-2742 Estate recovery—Service-related limitations.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Pear Conference Room 107, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at http://www.hca.wa.gov/documents/directions_to_csp.pdf or directions can be obtained by calling (360) 725-1000), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than May 10, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, email arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on May 9, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed, by May 5, 2017, email amber.lougheed@hca.wa.gov, (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency drafted these rules to implement newly funded programs MAC and TSOA, that provide benefits for person-centered long-term services and supports (LTSS) to unpaid family members caring for medicaid-eligible clients. The agency amended WAC 182-503-0510 Washington apple health—Program summary, to include TSOA as a program not based on modified adjusted gross income, social security income, or temporary assistance for needy families methodologies. Other changes to WAC 182-503-0510 were housekeeping changes. The agency amended WAC 182-527-2734 Liens during a client's lifetime, to clarify when a client is not expected to return home in terms of when the agency can file a lien, and to exclude the medicaid transformation project services when determining the amount of liens.

Reasons Supporting Proposal: The new sections under chapter 182-513 WAC are necessary to implement provisions under 2ESHB 2376, section 213 (1)(e), chapter 36, Laws of 2016, 65th Legislature, 2016 1st sp. sess., and Section 1115 of the Social Security Act; 42 C.F.R. Sec. 431.400 through -428.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; 2ESHB 2376, chapter 36, Laws of 2016; and Section 1115 of the Social Security Act; 42 C.F.R. Sec. 431.400 through -428.

Statute Being Implemented: RCW 41.05.021, 41.05.160; 2ESHB 2376, chapter 36, Laws of 2016; and Section 1115 of the Social Security Act; 42 C.F.R. Sec. 431.400 through -428.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1346; Implementation and Enforcement: Stephen Kozak, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-1343.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules

unless requested by the joint administrative rules review committee or applied voluntarily.

April 5, 2017
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-06-068, filed 2/28/14, effective 3/31/14)

WAC 182-503-0510 Washington apple health—Program summary. (1) The agency categorizes Washington apple health ((WAH)) programs into three groups based on the income methodology used to determine eligibility:

(a) Those that use a modified adjusted gross income (MAGI)-based methodology described in WAC 182-509-0300, called MAGI-based ((WAH)) apple health programs;

(b) Those that use an income methodology other than MAGI, called non-MAGI-based ((WAH)) apple health programs, which include:

(i) Supplemental security income (SSI)-related ((WAH)) apple health programs;

(ii) Temporary assistance for needy families (TANF)-related ((WAH)) apple health programs; and

(iii) Other ((WAH)) apple health programs not based on MAGI, SSI, or TANF methodologies.

(c) Those that provide coverage based on a specific status or entitlement in federal rule and not on countable income, called deemed eligible ((WAH)) apple health programs.

(2) MAGI-based ((WAH)) apple health programs include the following:

(a) ((WAH)) Apple health parent and caretaker relative program described in WAC 182-505-0240;

(b) MAGI-based ((WAH)) apple health adult medical program described in WAC 182-505-0250, for which the scope of coverage is called the alternative benefits plan (ABP) described in WAC 182-500-0010;

(c) ((WAH)) Apple health for pregnant women program described in WAC 182-505-0115;

(d) ((WAH)) Apple health for kids program described in WAC 182-505-0210 (3)(a);

(e) Premium-based ((WAH)) apple health for kids described in WAC 182-505-0215;

(f) ((WAH)) Apple health long-term care for children and adults described in chapter 182-514 WAC; and

(g) ((WAH)) Apple health alien emergency medical program described in WAC 182-507-0110 through 182-507-0125 when the person is eligible based on criteria for a MAGI-based ((WAH)) apple health program.

(3) Non-MAGI-based ((WAH)) apple health programs include the following:

(a) SSI-related programs which use the income methodologies of the SSI program (except where the agency has adopted more liberal rules than SSI) described in chapter 182-512 WAC to determine eligibility:

(i) ((WAH)) Apple health for workers with disabilities (HWD) described in chapter 182-511 WAC;

(ii) ((WAH)) Apple health SSI-related programs described in chapters 182-512 and 182-519 WAC;

(iii) ((WAH)) Apple health long-term care and hospice programs described in chapters 182-513 and 182-515 WAC;

(iv) ((WAH)) Apple health medicare savings programs described in chapter 182-517 WAC; and

(v) ((WAH)) Apple health alien emergency medical (AEM) programs described in WAC 182-507-0110 and 182-507-0125 when the person meets the age, blindness or disability criteria specified in WAC 182-512-0050.

(b) TANF-related programs which use the income methodologies based on the TANF cash program described in WAC 388-450-0170 to determine eligibility, with variations as specified in WAC 182-509-0001(5) and program specific rules:

(i) ((WAH)) Refugee medical assistance (RMA) program described in WAC 182-507-0130; and

(ii) ((WAH)) Apple health medically needy (MN) coverage for pregnant women and children who do not meet SSI-related criteria.

(c) Other programs:

(i) ((WAH)) Breast and cervical cancer program described in WAC 182-505-0120;

(ii) ((WAH)) TAKE CHARGE program described in WAC 182-532-0720;

(iii) ((WAH)) Medical care services described in WAC 182-508-0005;

(iv) ((WAH)) Apple health for pregnant minors described in WAC 182-505-0117; ((and))

(v) ((WAH)) Kidney disease program described in chapter 182-540 WAC; and

(vi) Tailored supports for older adults described in WAC 182-513-1610.

(4) Deemed eligible ((WAH)) apple health programs include:

(a) ((WAH)) Apple health SSI medical program described in chapter 182-510 WAC, or a person who meets the medicaid eligibility criteria in 1619b of the Social Security Act;

(b) ((WAH)) Newborn medical program described in WAC 182-505-0210(2);

(c) ((WAH)) Foster care program described in WAC 182-505-0211;

(d) ((WAH)) Medical extension program described in WAC 182-523-0100; and

(e) ((WAH)) Family planning extension described in WAC 182-505-0115(5).

(5) A person is eligible for categorically needy (CN) health care coverage when the household's countable income is at or below the categorically needy income level (CNIL) for the specific program.

(6) If income is above the CNIL, a person is eligible for the MN program if the person is:

(a) A child;

(b) A pregnant woman; or

(c) SSI-related (aged sixty-five, blind or disabled).

(7) MN health care coverage is not available to parents, caretaker relatives, or adults unless they are eligible under subsection (6) of this section.

(8) A person who is eligible for the ((WAH)) apple health MAGI-based adult program listed in subsection (2)(b) of this section is eligible for ABP health care coverage as

defined in WAC 182-500-0010. Such a person may apply for more comprehensive coverage through another ((WAH)) apple health program at any time.

(9) For the other specific program requirements a person must meet to qualify for ((WAH)) apple health, see chapters 182-503 through 182-527 WAC.

NEW SECTION

WAC 182-513-1600 Medicaid alternative care (MAC)—Overview. Medicaid alternative care (MAC) is a Washington apple health benefit authorized under section 1115 of the Social Security Act. It enables the medicaid agency and the agency's designees to deliver an array of person-centered long-term services and supports (LTSS) to unpaid caregivers caring for a medicaid-eligible person who meets nursing facility level of care under WAC 388-106-0355.

(1) For services included with the MAC benefit package, see WAC 388-106-1900 through 388-106-1985.

(2) For financial eligibility for MAC services, see WAC 182-513-1605.

NEW SECTION

WAC 182-513-1605 Medicaid alternative care (MAC)—Eligibility. (1) The person receiving care must meet the financial eligibility criteria for medicaid alternative care (MAC).

(2) To be eligible for MAC services, the person receiving care must:

(a) Be age fifty-five or older;

(b) Be assessed as meeting nursing facility level of care under WAC 388-106-0355 and choose to receive services under the MAC program instead of other long-term services and supports;

(c) Meet residency requirements under WAC 182-503-0520;

(d) Live at home and not in a residential or institutional setting;

(e) Have an eligible unpaid caregiver under WAC 388-106-1905;

(f) Meet citizenship and immigration status requirements under WAC 182-503-0535 (2)(a) or (b); and

(g) Be eligible for either:

(i) A noninstitutional medicaid program, which provides categorically needy (CN) or alternative benefit plan (ABP) scope of care under WAC 182-501-0060; or

(ii) An SSI-related CN program by using spousal impoverishment protections institutionalized (SIPI) spouse rules under WAC 182-513-1660.

(3) An applicant whose eligibility is under one or more of the following programs is not eligible for MAC:

(a) Medically needy program under WAC 182-519-0100;

(b) Medicare savings programs under WAC 182-517-0300;

(c) Family planning program under WAC 182-505-0115;

(d) TAKE CHARGE program under WAC 182-532-720;

(e) Medical care services program under WAC 182-508-0005;

(f) Alien emergency medical program under WAC 182-507-0110 through 182-507-0120;

(g) State funded long-term care for noncitizens program under WAC 182-507-0125;

(h) The kidney disease program under chapter 182-540 WAC; or

(i) Tailored supports for older adults program under WAC 182-513-1610.

(4) The following rules do not apply to services provided under the MAC benefit:

(a) Transfer of asset penalties under WAC 182-513-1363;

(b) Excess home equity under WAC 182-513-1350; and

(c) Estate recovery under chapter 182-527 WAC.

NEW SECTION

WAC 182-513-1610 Tailored supports for older adults (TSOA)—Overview. (1) The tailored supports for older adults (TSOA) program is a federally funded program approved under section 1115 of the Social Security Act. It enables the medicaid agency and the agency's designees to deliver person-centered long-term services and supports (LTSS) to a person who:

(a) Meets nursing facility level of care described in WAC 388-106-0355; and

(b) Meets the functional requirements under WAC 388-106-1900 through 388-106-1985.

(2) For the purposes of TSOA, the applicant is the person receiving care even though services may be authorized to the person providing care.

(3) TSOA does not provide Washington apple health coverage.

NEW SECTION

WAC 182-513-1615 Tailored supports for older adults (TSOA)—General eligibility. (1) The person receiving care must meet the financial eligibility criteria for tailored supports for older adults (TSOA).

(2) To be eligible for the TSOA program, the person receiving care must:

(a) Be age fifty-five or older;

(b) Be assessed as meeting nursing facility level of care under WAC 388-106-0355;

(c) Meet residency requirements under WAC 182-503-0520;

(d) Live at home and not in a residential or institutional setting;

(e) Have an eligible unpaid caregiver under WAC 388-106-1905, or meet the criteria under WAC 388-106-1910 if the person does not have an eligible unpaid caregiver;

(f) Meet citizenship or immigration status requirements under WAC 182-503-0535. To be eligible for TSOA, a person must be a:

(i) U.S. citizen under WAC 182-503-0535 (1)(c);

(ii) U.S. national under WAC 182-503-0535 (1)(d);

(iii) Qualifying American Indian born abroad under WAC 182-503-0535 (1)(f); or

(iv) Qualified alien under WAC 182-503-0535 (1)(b) and have either met or is exempt from the five-year bar requirement for medicaid.

(g) Provide a valid Social Security number under WAC 182-503-0515;

(h) Have countable resources within specific program limits under WAC 182-513-1640; and

(i) Meet income requirements under WAC 182-513-1635.

(3) TSOA applicants who receive coverage under Washington apple health programs are not eligible for TSOA, unless they are enrolled in:

(a) Medically needy program under WAC 182-519-0100;

(b) Medicare savings programs under WAC 182-517-0300;

(c) Family planning program under WAC 182-505-0115;

(d) TAKE CHARGE program under WAC 182-532-720; or

(e) The kidney disease program under chapter 182-540 WAC.

(4) A person who receives apple health coverage under a categorically needy (CN) or alternative benefit plan (ABP) program is not eligible for TSOA but may qualify for:

(a) Caregiver supports under medicaid alternative care (MAC) under WAC 182-513-1605; or

(b) Other long-term services and supports under chapter 182-513 or 182-515 WAC.

(5) The following rules do not apply to services provided under the TSOA benefit:

(a) Transfer of asset penalties under WAC 182-513-1363;

(b) Excess home equity under WAC 182-513-1350;

(c) Client financial responsibility under WAC 182-515-1509;

(d) Estate recovery under chapter 182-527 WAC;

(e) Disability requirements under WAC 182-512-0050;

(f) Requirement to do anything necessary to obtain income under WAC 182-512-0700(1); and

(g) Assignment of rights and cooperation under WAC 182-503-0540.

NEW SECTION

WAC 182-513-1620 Tailored supports for older adults (TSOA)—Presumptive eligibility. (1) A person may be determined presumptively eligible for tailored supports for older adults (TSOA) services upon completion of a prescreening interview.

(2) The prescreening interview may be conducted by either:

(a) The area agency on aging (AAA); or

(b) By a home and community services intake case manager or social worker.

(3) To receive services under presumptive eligibility, the person must meet:

(a) Nursing facility level of care under WAC 388-106-0355;

(b) TSOA income limits under WAC 182-513-1635; and

(c) TSOA resource limits under WAC 182-513-1640.

(4) The presumptive period begins on the date the determination is made and:

(a) Ends on the last day of the month following the month of the presumptive eligibility (PE) determination if a full TSOA application is not completed and submitted by that date; or

(b) Continues through the date the final TSOA eligibility determination is made if a full TSOA application is submitted before the last day of the month following the month of the PE determination.

(5) If the person applies and is not determined financially eligible for TSOA, there is no overpayment or liability on the part of the applicant for services received during the PE period.

(6) The medicaid agency or the agency's designee sends written notice as described in WAC 182-518-0010 when PE for TSOA is approved or denied.

(7) A person may only receive one PE period within a twelve consecutive month period.

(8) If the agency establishes a waitlist for TSOA services under WAC 388-106-1975, PE does not apply.

NEW SECTION

WAC 182-513-1625 Tailored supports for older adults (TSOA)—Applications. (1) Applications for tailored supports for older adults (TSOA) are submitted:

(a) Online at Washington Connection at www.washingtonconnection.org;

(b) By sending a completed HCA 18-008 application for TSOA form to P.O. Box 45826, Olympia, WA 98605;

(c) By faxing a completed HCA 18-008 application for TSOA form to 1-855-635-8305;

(d) By contacting your local area agency on aging (AAA) office at 1-855-567-0252; or

(e) By contacting your local home and community services (HCS) office. To find your local HCS office, see <http://www.alsa.dshs.wa.gov/Resources/clickmap.htm>.

(2) Help filing an application:

(a) The medicaid agency or the agency's designee provides help with the application or renewal process in a manner that is accessible to people with disabilities as described in WAC 182-503-0120 and to those who are limited-English proficient as described in WAC 182-503-0110;

(b) For help filing an application:

(i) Contact a local AAA office;

(ii) Contact a local HCS office;

(iii) Have an authorized representative apply on the person's behalf.

(3) The following people can apply for the TSOA program:

(a) The applicant (the person receiving care);

(b) The applicant's spouse;

(c) The applicant's caregiver (person providing in-home caregiver services);

(d) A legal guardian; or

(e) An authorized representative, as defined in WAC 182-500-0010.

(4) A phone interview is required to establish TSOA eligibility, but may be waived if the applicant is unable to comply:

(a) Due to the applicant's medical condition; and

(b) Because the applicant does not have another person that is able to conduct the interview on the applicant's behalf.

(5) The agency or the agency's designee processes TSOA applications using the same timelines under WAC 182-503-0060.

(6) TSOA begins on the date the person is determined presumptively eligible for TSOA under WAC 182-513-1620; or on the date all eligibility requirements are established if not found presumptively eligible.

(7) When the person withdraws an application for TSOA, or is determined ineligible for TSOA services, the agency or the agency's designee denies the application under WAC 182-503-0080.

NEW SECTION

WAC 182-513-1630 Tailored supports for older adults (TSOA)—Rights and responsibilities. (1) A person applying for or receiving tailored supports for older adults (TSOA) has the right to:

(a) Have TSOA rights and responsibilities explained and provided in writing;

(b) Be treated politely and fairly without regard to race, color, political beliefs, national origin, religion, age, gender (including gender identity and sex stereotyping), sexual orientation, disability, honorably discharged veteran or military status, or birthplace;

(c) Get help with the TSOA application if requested;

(d) Have an application processed promptly and no later than the timelines described in WAC 182-503-0060;

(e) Have at least ten calendar days to give the medicaid agency or the agency's designee information needed to determine eligibility and be given more time if asked for;

(f) Have personal information kept confidential. The agency or the agency's designee may share information with other state and federal agencies for purposes of eligibility and enrollment in other Washington apple health programs;

(g) Get written notice, in most cases, at least ten calendar days before the agency or its designee denies, terminates, or changes eligibility for TSOA;

(h) Ask for an appeal if the person disagrees with the agency or the agency's designee's decision. A person can also ask a supervisor or administrator to review the decision or action without affecting the right to a fair hearing;

(i) Ask for and get interpreter or translator services at no cost and without delay;

(j) Ask for voter registration assistance;

(k) Refuse to speak to an investigator if the person's case is audited. If the person does not want to let the investigator enter their home, there is no requirement to do so and the person may ask the investigator to come back at another time. Such a request will not affect a person's eligibility for TSOA; and

(l) Get equal access services under WAC 182-503-0120 if eligible.

(2) An applicant or recipient of TSOA is responsible to:

(a) Report changes in household or family circumstances as required under WAC 182-513-1650;

(b) Provide the agency or the agency's designee with any information or proof needed to determine eligibility. If the person has trouble getting proof, the agency or the agency's designee helps get the proof needed or contacts other persons or agencies for it;

(c) Provide a valid Social Security number or immigration document number in order to verify identity, citizenship, immigration status, date of birth, and whether the person has other health care coverage. This information is not shared with the department of homeland security;

(d) Complete renewals when requested; and

(e) Cooperate with quality assurance when requested.

NEW SECTION

WAC 182-513-1635 Tailored supports for older adults (TSOA)—Income eligibility. (1) To determine income eligibility for the tailored supports for older adults (TSOA) program, the medicaid agency or the agency's designee uses the following rules depending on whether the person is single or married.

(2) If the TSOA applicant is single:

(a) Determine available income under WAC 182-513-1325;

(b) Exclude income under WAC 182-513-1340; and

(c) Compare remaining gross nonexcluded income to the special income level (SIL). To be eligible, a person's gross income must be equal to or less than the SIL (three hundred percent of the federal benefit rate (FBR)).

(3) If the TSOA applicant is married:

(a) Determine available income under WAC 182-513-1330 with the exception of subsection (5) of that section;

(b) Exclude income under WAC 182-513-1340;

(c) Compare the applicant's remaining gross nonexcluded income to the SIL. To be eligible, a person's gross income must be equal to or less than the SIL (three hundred percent of the FBR).

NEW SECTION

WAC 182-513-1640 Tailored supports for older adults (TSOA)—Resource eligibility. (1) The resource standard for a single applicant for tailored supports for older adults (TSOA) is \$53,100.

(2) The resource standard for a married couple is \$53,100 for the TSOA applicant plus the state spousal resource standard for the spousal impoverishment protections community (SIPC) spouse. The state spousal resource standard may change annually on July 1st. The resource standards are found at <http://www.hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources>.

(3) The medicaid agency or the agency's designee uses rules in WAC 182-513-1350 (1), (3) and (4) to determine general eligibility relating to resources, availability of resources, and which resources count.

(4) The TSOA recipient has one year from the date of initial eligibility of TSOA to transfer resources in excess of the TSOA standard to the SIPC spouse.

NEW SECTION

WAC 182-513-1645 Tailored supports for older adults (TSOA)—Certification periods. (1) A certification period is the period of time a person is determined eligible for the tailored supports for older adults (TSOA) program. It begins on the first day of the month that the medicaid agency or the agency's designee determines the person is eligible for TSOA services, and continues through the last day of the month of the certification period.

(2) TSOA is certified for twelve months of continuous coverage regardless of a change in circumstances, unless the person:

(a) Moves out-of-state;

(b) Meets institutional status under WAC 182-513-1320;

(c) Becomes eligible for a categorically needy or alternate benefit plan Washington apple health program; or

(d) Dies.

(3) Financial eligibility for the TSOA program may not be approved prior to the date of a presumptive or full eligibility determination.

NEW SECTION

WAC 182-513-1650 Tailored supports for older adults (TSOA)—Changes of circumstances requirements.

(1) Changes in tailored supports for older adults (TSOA) household and family circumstances described in subsection (2) of this section must be reported to the medicaid agency or the agency's designee within thirty days of the date of the change.

(2) The following changes must be reported:

(a) A change in residential or mailing address, including if the TSOA recipient moves out-of-state;

(b) When a person admits to an institution, as defined in WAC 182-500-0050, and is likely to reside there for thirty days or longer; or

(c) The person dies.

(3) When TSOA terminates due to one of the following changes, the effective date is the date of the change:

(a) The person admits to an institution and is expected to reside there for thirty days or longer;

(b) The person is approved for coverage under a home and community-based waiver program;

(c) The person becomes eligible for categorically needy (CN) or alternate benefit plan (ABP) Washington apple health coverage; or

(d) The person dies.

(4) When TSOA terminates because the person becomes eligible for CN or ABP apple health coverage, the effective date is the date the CN or ABP coverage starts. The person may qualify for other long-term services and supports under chapters 182-513 and 182-515 WAC, as well as services similar to those provided under TSOA by the medicaid alternative care program under WAC 182-513-1600.

(5) When TSOA terminates because the person no longer meets nursing facility level of care under WAC 388-106-

0355, the effective date is the first day of the month following the advance notice period described in subsection (6) of this section.

(6) The advance notice period:

(a) Begins on the day the letter about the change is mailed; and

(b) Is determined according to the rules in WAC 182-518-0025.

(7) When a law or regulation requires a change in TSOA the date specified by the law or regulation is the effective date of the change.

NEW SECTION

WAC 182-513-1655 Tailored supports for older adults (TSOA)—Renewals. (1) A person who receives tailored supports for older adults (TSOA) services must complete a renewal of all eligibility factors for the program at least every twelve months.

(2) Forty-five days prior to the end of the certification period, notice is sent with the HCA 18-008 application for TSOA form. Complete the TSOA renewal in any of the following ways:

(a) Complete the TSOA application form, sign it, and mail it to P.O. Box 45826, Olympia, WA 98605 by the due date on the letter;

(b) Complete the TSOA application form, sign it, and fax it to 1-855-635-8305 by the due date on the letter;

(c) Renew online at Washington connection at www.washingtonconnection.org by the due date on the letter; or

(d) Call your local home and community services office at the telephone number on the letter by the due date on the letter.

(3) During the renewal process, the medicaid agency or the agency's designee reviews all eligibility factors to determine ongoing eligibility for TSOA, and may request additional verification of eligibility factors under WAC 182-503-0050 if unable to verify information through existing data sources. If additional information is needed, the agency or the agency's designee sends written notice under WAC 182-518-0015.

(4) If the agency or the agency's designee is unable to complete the renewal or determine eligibility for TSOA beyond the certification period, prior to ending eligibility for TSOA, the agency or the agency's designee sends a written termination notice as described in WAC 182-518-0025.

(5) A person who is terminated from TSOA for failure to renew has thirty days from the termination date to submit a completed renewal. If still eligible, TSOA is reopened without a break in eligibility.

(6) Equal access services as described in WAC 182-503-0120 are provided for anyone who needs help meeting the requirements of this section.

(7) Anyone who disagrees with an action regarding TSOA eligibility may ask for a hearing under chapter 182-526 WAC.

NEW SECTION

WAC 182-513-1660 Medicaid alternative care (MAC) and tailored supports for older adults (TSOA)—

Spousal impoverishment. (1) The medicaid agency or the agency's designee determines financial eligibility for medicaid alternative care (MAC) or tailored supports for older adults (TSOA) using spousal impoverishment protections under this section, when an applicant or recipient:

(a) Is married to, or marries a person not in a medical institution; and

(b) Is ineligible for a noninstitutional categorically needy (CN) SSI-related program or the TSOA program due to:

(i) Spousal deeming rules under WAC 182-512-0920 for MAC;

(ii) Exceeding the resource limit in WAC 182-512-0010 for MAC, or the limit under WAC 182-513-1640 for TSOA; or

(iii) Both (b)(i) and (ii) of this subsection.

(2) When a resource test applies, the agency or the agency's designee determines countable resources using the SSI-related resource rules under chapter 182-512 WAC, except pension funds owned by the spousal impoverishment protections community (SIPC) spouse are not excluded as described under WAC 182-512-0550:

(a) Resource standards:

(i) For MAC, the resource standard is \$2,000; or

(ii) For TSOA, the resource standard is \$53,100.

(b) Before determining countable resources used to establish eligibility for the applicant, the agency or the agency's designee allocates the state spousal resource standard to the SIPC spouse.

(c) The resources of the SIPC spouse are unavailable to the spousal impoverishment protections institutionalized (SIPI) spouse the month after eligibility for MAC or TSOA services is established.

(3) The SIPI spouse has until the end of the month of the first regularly scheduled eligibility review to transfer countable resources in excess of \$2,000 (for MAC) or \$53,100 (for TSOA) to the SIPC spouse.

(4) Income eligibility:

(a) For MAC:

(i) The agency or the agency's designee determines countable income using the SSI-related income rules under chapter 182-512 WAC, but uses only the applicant or recipient's income;

(ii) If the applicant's or recipient's countable income is at or below the SSI categorically needy income level (CNIL), the applicant or recipient is considered a SIPI spouse and is income eligible for noninstitutional CN coverage and MAC services;

(iii) If the applicant is employed and the applicant's countable income is at or below the standard under WAC 182-511-1060, the applicant is considered a SIPI spouse and is income eligible for noninstitutional CN coverage under the health care for workers with disabilities (HWD) program and MAC services.

(b) For TSOA, see WAC 182-513-1635.

(5) Once a person no longer receives MAC services, eligibility is redetermined without using spousal impoverishment protections under WAC 182-504-0125.

(6) If the applicant's separate countable income is above the standards described in subsection (4) of this section, the applicant is not income eligible for MAC or TSOA services.

(7) The spousal impoverishment protections described in this section are time-limited and expire on December 31, 2018.

(8) Standards described in this chapter are located at <http://hca.wa.gov/free-or-low-cost-health-care/program-administration/program-standard-income-and-resources>.

AMENDATORY SECTION (Amending WSR 16-05-054, filed 2/12/16, effective 3/14/16)

WAC 182-527-2734 Liens during a client's lifetime.

For the purposes of this section, the term "agency" includes the agency's designee.

(1) When the agency may file.

(a) The agency may file a lien against the property of a Washington apple health client during the client's lifetime if:

(i) The client resides in a skilled nursing facility, intermediate care facility for individuals with an intellectual disability, or other medical institution under WAC 182-500-0050;

(ii) The agency (~~has determined~~) determines that ~~the~~ a client cannot reasonably be expected to return home because:

(A) The agency receives a physician's verification that the client will not be able to return home; or

(B) The client has resided for six months or longer in an institution as defined in WAC 182-500-0050; and

(iii) None of the following people lawfully reside in the client's home:

(A) The client's spouse or state-registered domestic partner;

(B) The client's child who is age twenty or younger, or is blind or permanently disabled as defined in WAC 182-512-0050; or

(C) A client's sibling who has an equity interest in the home and who has been residing in the home for at least one year immediately before the client's admission to the medical institution.

(b) If the client returns home from the medical institution, the agency releases the lien.

(2) Amount of the lien.

(a) The agency may file a lien to recoup the cost of all non-MAGI-based and deemed eligible services under WAC 182-503-0510 it correctly purchased on the client's behalf, regardless of the client's age on the date of service.

(b) Services provided under the medicaid transformation project, defined in WAC 182-500-0070, are excluded when determining the amount of the lien.

(3) Notice requirement.

(a) Before the agency may file a lien under this section, it sends notice via first class mail to:

(i) The client's last known address;

(ii) The client's authorized representative, if any;

(iii) The address of the property subject to the lien; and

(iv) Any other person known to hold title to the property.

(b) The notice states:

(i) The client's name;

(ii) The agency's intent to file a lien against the client's property;

(iii) The county in which the property is located; and

(iv) How to request an administrative hearing.

(4) Interest assessed on past-due debt.

(a) Interest on a past-due debt accrues at a rate of one percent per month under RCW 43.17.240.

(b) A lien under this section becomes a past-due debt when the agency has recorded the lien in the county where the property is located and:

(i) Thirty days have passed since the property was transferred; or

(ii) Nine months have passed since the lien was filed.

(c) The agency may waive interest if reasonable efforts to sell the property have failed.

(5) **Administrative hearing.** An administrative hearing under this section is governed by WAC 182-527-2753.

AMENDATORY SECTION (Amending WSR 16-05-054, filed 2/12/16, effective 3/14/16)

WAC 182-527-2742 Estate recovery—Service-related limitations. For the purposes of this section, the term "agency" includes the agency's designee.

The agency's payment for the following services is subject to recovery:

(1) State-only funded services, except:

(a) Adult protective services;

(b) Offender reentry community safety program services;

(c) Supplemental security payments (SSP) authorized by the developmental disabilities administration (DDA); and

(d) Volunteer chore services.

(2) For dates of service (~~beginning~~) on and after January 1, 2014:

(a) Basic plus waiver services;

(b) Community first choice (CFC) services;

(c) Community option program entry system (COPES) services;

(d) Community protection waiver services;

(e) Core waiver services;

(f) Hospice services;

(g) Intermediate care facility for individuals with intellectual disabilities services provided in either a private community setting or in a rural health clinic;

(h) Individual and family services;

(i) Medicaid personal care services;

(j) New Freedom consumer directed services;

(k) Nursing facility services;

(l) Personal care services funded under Title XIX or XXI;

(m) Private duty nursing administered by the aging and long-term support administration (AL TSA) or the DDA;

(n) Residential habilitation center services;

(o) Residential support waiver services;

(p) Roads to community living demonstration project services;

(q) The portion of the managed care premium used to pay for AL TSA-authorized long-term care services under the program of all-inclusive care for the elderly (PACE); and

(r) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(3) For dates of service beginning January 1, 2010, through December 31, 2013:

- (a) Medicaid services;
- (b) Premium payments to managed care organizations (MCOs); and
- (c) The client's proportional share of the state's monthly contribution to the Centers for Medicare and Medicaid Services to defray the costs for outpatient prescription drug coverage provided to a person who is eligible for medicare Part D and medicaid.

(4) For dates of service beginning June 1, 2004, through December 31, 2009:

- (a) Medicaid services;
- (b) Medicare premiums for people also receiving medicaid;
- (c) Medicare savings programs (MSPs) services for people also receiving medicaid; and
- (d) Premium payments to MCOs.

(5) For dates of service beginning July 1, 1995, through May 31, 2004:

- (a) Adult day health services;
- (b) Home and community-based services;
- (c) Medicaid personal care services;
- (d) Nursing facility services;
- (e) Private duty nursing services; and
- (f) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(6) For dates of service beginning July 1, 1994, through June 30, 1995:

- (a) Home and community-based services;
- (b) Nursing facility services; and
- (c) The hospital and prescription drug services provided to a client while the client was receiving services listed in this subsection.

(7) For dates of service beginning July 26, 1987, through June 30, 1994: Medicaid services.

(8) For dates of service through December 31, 2009. If a client was eligible for the MSP, but not otherwise medicaid eligible, the client's estate is liable only for any sum paid to cover medicare premiums and cost-sharing benefits.

(9) For dates of service beginning January 1, 2010. If a client was eligible for medicaid and the MSP, the client's estate is not liable for any sum paid to cover medical assistance cost-sharing benefits.

(10) For dates of service beginning July 1, 2017, long-term services and supports authorized under the medicaid transformation project are exempt from estate recovery. Exempted services include those provided under:

- (a) Medicaid alternative care under WAC 182-513-1600;
- (b) Tailored supports for older adults under WAC 182-513-1610;
- (c) Supportive housing under WAC 388-106-1700 through 388-106-1765; or
- (d) Supported employment under WAC 388-106-1800 through 388-106-1865.

WSR 17-08-096

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed April 5, 2017, 10:06 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.-330(1).

Title of Rule and Other Identifying Information: WAC 246-08-400 How much can a health care provider charge for searching and duplicating health care records, pursuant to RCW 70.02.010(37). Proposing biennial amendments under RCW 70.02.010(37) and clarifying how the rule relates to federal HIPAA rules.

Hearing Location(s): Department of Health, 111 Israel Road, Town Center 2, Room 158, Tumwater, WA 98501, on May 25, 2017, at 11:00.

Date of Intended Adoption: May 25, 2017.

Submit Written Comments to: Sherry Thomas, P.O. Box 47850, Olympia, WA 98504-7850, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by May 25, 2017.

Assistance for Persons with Disabilities: Contact Sherry Thomas by May 18, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose is to adjust the maximum fees health care providers are allowed to charge for searching and duplicating health care records. The adjustment is legislatively required to occur every two years, and must be based on the change in the consumer price index (CPI) for the Seattle-Tacoma area (see below). The current rates reflect the change over time from the original (1993) rates in RCW 70.02.010(37). The department is also proposing deletion of the effective dates in subsection (3) because these dates are unnecessary, and clarification of how this rule relates to federal HIPAA rules.

Bureau of Labor Statistics

Consumer Price Index - All Urban Consumers Original Data Value

Series Id: CUUSA423SA0

Not Seasonally Adjusted

Area: Seattle-Tacoma-Bremerton, WA

Item: All items

Base Period: 1982-84=100

Years: 2014 to 2016

Year	Dec
2014	245.050
2015	250.385
2016	256.821

1.048035095

4.8% increase in CPI

**Consumer Price Index - All Urban Consumers
12-Month Percent Change**

Series Id: CUUSA423SA0
Not Seasonally Adjusted
Area: Seattle-Tacoma-Bremerton, WA
Item: All items
Base Period: 1982-84=100
Years: 2014 to 2016

Year	Dec
2014	1.7
2015	2.2
2016	2.6

4.8

Generated on: February 13, 2017 (06:00:09 PM)

Reasons Supporting Proposal: The proposed rule sets reasonable fees that providers are allowed to charge for cost recovery for searching and duplicating health care records. The CPI for the Seattle-Tacoma area changed from 245.050 in 2014 to 256.821 in 2016, which is a 4.8 percent increase. The proposed deletion of the effective dates listed in the rule in subsection (3) are unnecessary because the biennial adjustments will be effective thirty-one days after filing and remain in effect until the next biennial adjustment becomes effective. The clarification for HIPAA covered entities is being proposed in response to stakeholder input.

Statutory Authority for Adoption: RCW 70.02.010(37) and 43.70.040.

Statute Being Implemented: RCW 70.02.010(37).

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sherry Thomas, 111 Israel Road, Tumwater, WA 98501, (360) 236-4612.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 34.05.310 (4)(f), a small business economic impact statement is not required for a proposed rule that sets or adjusts fees or rates pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

April 5, 2017
 John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 15-14-073, filed 6/26/15, effective 7/27/15)

WAC 246-08-400 How much can a health care provider charge for searching and duplicating health care records? RCW 70.02.010(37) allows health care providers to charge fees for searching and duplicating health care records. The fees a provider may charge cannot exceed the fees listed below:

- (1) Copying charge per page:
 - (a) No more than one dollar and ~~((twelve))~~ seventeen cents per page for the first thirty pages;
 - (b) No more than ~~((eighty-four))~~ eighty-eight cents per page for all other pages.
- (2) Additional charges:
 - (a) The provider can charge a ~~((twenty-five))~~ twenty-six dollar clerical fee for searching and handling records;
 - (b) If the provider personally edits confidential information from the record, as required by statute, the provider can charge the usual fee for a basic office visit.
- (3) ~~((This section is effective July 1, 2015, through June 30, 2017.~~
- ~~((4)))~~ HIPAA covered entities ~~((shall refer to))~~ may not charge fees or costs that are not authorized by, or are prohibited by, Federal HIPAA regulation 45 C.F.R. Sec. 164((524(e)(4))).

**WSR 17-08-101
 PROPOSED RULES
 SECRETARY OF STATE**

[Filed April 5, 2017, 11:10 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-21-006.

Title of Rule and Other Identifying Information: Title 434 WAC, Secretary of state, elections.

Hearing Location(s): Office of the Secretary of State (OSOS), Elections Division, 520 Union Avenue, Olympia, WA 98504-0229, (360) 902-4180, on May 9, 2017, at 2:00 p.m.

Date of Intended Adoption: June 6, 2017.

Submit Written Comments to: Miriam Campbell, 520 Union, P.O. Box 40229, Olympia, WA 98504, email miriam.campbell@sos.wa.gov, fax (360) 664-4619, by May 9, 2017.

Assistance for Persons with Disabilities: Contact Miriam Campbell by May 8, 2017, (360) 902-4180.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments update the voter registration form and clarify procedures for the initiative and referenda process, filing candidates, order of offices on the ballot, mail ballot certification, manual inspection of ballots, ballot deposit sites, observers, emergency canvassing board meetings, and the county auditor's abstract of votes.

Reasons Supporting Proposal: One change is necessary to reconcile WAC with state law. Additional changes clarify

procedures for the improvement of election administration, voter registration, and the initiative and referenda process.

Statutory Authority for Adoption: RCW 29A.04.611.

Statute Being Implemented: Chapters 29A.04, 29A.08, 29A.24, 29A.40, 29A.36, 29A.60, 29A.72 RCW.

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

Name of Proponent: OSOS, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Sheryl Moss and Miriam Campbell, P.O. Box 40220, Olympia, WA 98504-0220, (360) 902-4180; and Enforcement: Sheryl Moss, P.O. Box 40220, Olympia, WA 98504-0220, (360) 902-4180

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable.

April 5, 2017

Mark Neary

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 06-23-094, filed 11/15/06, effective 12/16/06)

WAC 434-215-050 Use of title, rank, or symbols prohibited. No person when filing for office shall be permitted to use any title, rank, or symbol instead of, or in conjunction with, his or her name including, but not limited to, Mr., Mrs., Dr., Ph.D., J.D., Gen., except as may be provided by law or administrative rule.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

WAC 434-215-065 Withdrawal of candidacy. Consistent with RCW 29A.24.131, a candidate may withdraw his or her declaration of candidacy at any time before the close of business on the Monday following the last day for candidates to file. The candidate must file a signed request that his or her name not be printed on the ballot. This request to withdraw must be filed with the officer who accepted the declaration of candidacy. A request to withdraw may be filed electronically. Once filed, the withdrawal cannot be revoked. There shall be no withdrawal period for declarations of candidacy filed during special filing periods.

AMENDATORY SECTION (Amending WSR 15-24-001, filed 11/18/15, effective 12/19/15)

WAC 434-230-015 Ballots and instructions. (1) Each ballot shall specify the county, the date, and whether the election is a primary, special or general.

(2) Each ballot must include instructions directing the voter how to mark the ballot, including write-in votes if candidate races appear on the ballot.

(3) Instructions that accompany a ballot must:

(a) Instruct the voter how to cancel a vote by drawing a line through the text of the candidate's name or ballot measure response;

(b) Notify the voter that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) Explain how to complete and sign the ballot declaration. The following declaration must accompany the ballot:

"I do solemnly swear or affirm under penalty of perjury that I am:

A citizen of the United States;

A legal resident of the state of Washington;

At least 18 years old on election day;

Voting only once in this election;

Not under the authority of the Department of Corrections for a Washington felony conviction; and

Not disqualified from voting due to a court order.

It is illegal to forge a signature or cast another person's ballot. Attempting to vote when not qualified, attempting to vote more than once, or falsely signing this declaration is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both."

The declaration must include space for the voter to sign and date the declaration, for the voter to write his or her phone number, and for two witnesses to sign if the voter is unable to sign.

(d) Explain how to make a mark, witnessed by two other people, if unable to sign the declaration;

(e) Explain how to place the ballot in the security envelope and place the security envelope in the return envelope;

(f) Explain how to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

(g) If applicable, explain that postage is required, or exactly how much postage is required. See WAC 434-250-200 on return postage;

(h) Explain that, in order for the ballot to be counted, it must be either postmarked no later than election day or deposited at a ballot drop box no later than 8:00 p.m. election day;

(i) Explain how to learn about the locations, hours, and services of voting centers and ballot drop boxes, including the availability of accessible voting equipment;

(j) Include, for a primary election that includes a partisan office other than a presidential primary race, a notice on an insert explaining:

"In each race, you may vote for any one candidate listed. The two candidates who receive the most votes in the primary will advance to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(k)(i) Include, for a general election that includes a partisan office, the following explanation:

"If a primary election was held for an office, the two candidates who received the most votes in the primary advanced to the general election.

Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(ii) In a year that president and vice president appear on the general election ballot, the following must be added to the statement required by (k)(i) of this subsection:

"The election for president and vice president is different. Candidates for president and vice president are the official nominees of their political party."

(4) Instructions that accompany a special absentee ballot authorized by RCW 29A.40.050 must also explain that the voter may request and subsequently vote a regular ballot, and that if the regular ballot is received by the county auditor, the regular ballot will be tabulated and the special absentee ballot will be voided.

(5) Each ballot must explain, either in the general instructions or in the heading of each race, the number of candidates for whom the voter may vote (e.g., "vote for one").

(6)(a) If the ballot includes a partisan office other than a presidential primary race, the ballot must include the following notice in bold print immediately above the first partisan congressional, state or county office: "READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(b) When the race for president and vice president appears on a general election ballot, instead of the notice required by (a) of this subsection, the ballot must include the following notice in bold print after president and vice president but immediately above the first partisan congressional, state or county office: "READ: Each candidate for president and vice president is the official nominee of a political party. For other partisan offices, each candidate may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate."

(c) The same notice may also be listed in the ballot instructions.

(7) Counties may use varying sizes and colors of ballots, provided such size and color is used consistently throughout a region, area or jurisdiction (e.g., legislative district, commissioner district, school district, etc.). Varying color and size may also be used to designate various types of ballots.

(8) Ballots shall be formatted as provided in RCW 29A.36.170.

(9) Removable stubs are not considered part of the ballot.

(10) If ballots are printed with sequential numbers or other sequential identifiers, the county auditor must take steps to prevent ballots from being issued sequentially, in order to protect secrecy of the ballot.

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-230-045 Candidate format. (1) For each office or position, the names of all candidates shall be listed together. If the office is on the primary election ballot, no candidates skip the primary and advance directly to the general election.

(2)(a) On the primary election ballot, candidates shall be listed in the order determined by lot.

(b) On the general election ballot, the candidate who received the highest number of votes in the primary shall be listed first, and the candidate who received the second highest number of votes in the primary shall be listed second. If the two candidates who received the most votes in the primary received exactly the same number of votes, the order in which their names are listed on the general election ballot shall be determined by lot.

(c) The political party that each candidate prefers is irrelevant to the order in which the candidates appear on the ballot.

(3) Candidate names shall be printed in a type style and point size that can be read easily. If a candidate's name exceeds the space provided, the election official shall take whatever steps necessary to place the name on the ballot in a manner which is readable. These steps may include, but are not limited to, printing a smaller point size or different type style.

(4) For partisan office:

(a) If the candidate stated his or her preference for a political party on the declaration of candidacy, that preference shall be printed below the candidate's name, with parentheses and the first letter of each word or abbreviation capitalized (~~(, as shown in the following)~~). Acronyms shall be printed in all capital letters with or without periods. For example:

John Smith

(Prefers Example Party)

John Smith

(Prefers ABC Party)

(b) If the candidate did not state his or her preference for a political party, that information shall be printed below the candidate's name, with parentheses and the first letter of each word capitalized, as shown in the following example:

John Smith

(States No Party Preference)

(c) The party preference line for each candidate may be in smaller point size or indented.

(d) The same party preference information shall be printed on both primary and general election ballots.

(5) If the office is nonpartisan, only the candidate's name shall appear. Neither "nonpartisan" nor "NP" shall be printed with each candidate's name.

(6) The law does not allow nominations or endorsements by interest groups, political action committees, political parties, labor unions, editorial boards, or other private organizations to be printed on the ballot.

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-230-025 Order of offices. Measures and offices must be listed in the following order, to the extent that they appear on a primary or election ballot:

- (1) Initiatives to the people;
- (2) Referendum measures;
- (3) Referendum bills;
- (4) Initiatives to the legislature and any alternate proposals;
- (5) Advisory votes;
- (6) Proposed constitutional amendments (senate joint resolutions, then house joint resolutions);
- ~~((6) Advisory votes;))~~
- (7) Countywide ballot measures;
- (8) President and vice president of the United States;
- (9) United States senator;
- (10) United States representative;
- (11) Governor;
- (12) Lieutenant governor;
- (13) Secretary of state;
- (14) State treasurer;
- (15) State auditor;
- (16) Attorney general;
- (17) Commissioner of public lands;
- (18) Superintendent of public instruction;
- (19) Insurance commissioner;
- (20) State senator;
- (21) State representative;
- (22) County officers;
- (23) Justices of the supreme court;
- (24) Judges of the court of appeals;
- (25) Judges of the superior court; and
- (26) Judges of the district court.

For all other jurisdictions, the offices in each jurisdiction shall be grouped together and listed by position number according to county auditor procedures.

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-250-037 Mail ballot certification. Pursuant to RCW 29A.40.070, ~~((fifteen days before each primary or election;))~~ the county auditor shall certify to the secretary of state the date ballots were mailed:

(1) ~~((That ballots were mailed or issued to service and overseas voters at least))~~ On the day of mailing or forty-five or thirty days before election day, whichever deadline is applicable, certify that ballots were sent to service and overseas voters. For elections that include a federal office, the certification must include the number of ballots mailed or issued to service and overseas voters;

(2) On the day of mailing or eighteen days before election day, certify that ballots were mailed or issued to regular voters ~~((at least eighteen days before election day));~~

(3) That ballots issued via electronic ballot delivery systems were proofed and checked for accuracy prior to the mailing deadline for service and overseas ballots; and

(4) If any ballots were not mailed or issued by the applicable deadlines, the reason for the delay and steps taken to remedy the delay.

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-250-100 Ballot deposit sites. ~~((+))~~ If a location only receives ballots and does not issue ~~((any))~~ ballots, it is considered a ballot deposit site. Ballot deposit sites may be staffed or unstaffed.

~~((a) If a))~~ (1) A staffed ballot deposit site ~~((is staffed, it))~~ must be staffed by at least two people. Deposit site staff may be employees of the county auditor's office or persons appointed by the auditor. ~~((If a deposit site is staffed by two or more persons appointed by the county auditor, the appointees))~~ Deposit site persons, appointed by the county auditor, shall be representatives of different major political parties whenever possible. Deposit site staff or appointees shall subscribe to an oath regarding the discharge of their duties. Staffed deposit sites open on election day must be open until 8:00 p.m. Staffed deposit sites may be open according to dates and times established by the county auditor. Staffed deposit sites must have a ~~((secure))~~ ballot box ~~((that is constructed in a manner to allow return envelopes, once deposited, to only be removed by the county auditor or by the deposit site staff))~~ secured in the manner described in WAC 434-261-045.

~~((b))~~ (2) Unstaffed ballot deposit sites consist of secured ballot boxes that allow return envelopes, once deposited, to only be removed by authorized staff or appointees. Ballot boxes located outdoors must be constructed of durable material able to withstand inclement weather, and be sufficiently secured to the ground or another structure to prevent their removal. ~~((From))~~ Unstaffed ballot deposit sites must accept ballots beginning eighteen days prior to election day until 8:00 p.m. on election day ~~((, two people who are either employees of or appointed by)).~~ The county auditor must empty each ballot box with sufficient frequency to prevent damage and unauthorized access to the ballots.

~~((2))~~ (3) Unstaffed ballot boxes must be ~~((secured at all times, with seal logs that document each time the box is opened and by whom. Ballots must either be transported to the county auditor's office or another designated location by at least two authorized people, or placed into a secured transport carrier for transport to the county auditor's office or other designated location))~~ locked and sealed in the manner described in WAC 434-261-045. At exactly 8:00 p.m. on election day, all unstaffed ballot boxes must be emptied or secured to prevent the deposit of additional ballots ~~((; however;)).~~ The box must be closed and secured by one or two people. One person may secure an unstaffed ballot box only if:

(a) The person does not have access to the deposited ballots; and

(b) Before sealing the deposit slot, the person records the seal number on a log and places the log inside the ballot box. The slot is then closed and secured with the numbered seal; and

(c) A team of two removes the ballots from the box and verifies the seal and log.

The county auditor shall remove the deposited ballots and transport them to the counting center by either:

(i) Two employees of or two persons appointed by the county auditor; or

(ii) Secured transport carrier containing ballots removed and sealed by two employees of or two persons appointed by the county auditor. Sealed transport carriers may be delivered to the counting center by one person. Ballots shall be secured in this manner when transported by vehicle.

(4) Any voter who is in line at 8:00 p.m. at a ballot deposit site must be allowed to ((vote and)) deposit his or her ballot. ((If a ballot is returned after the ballot box is emptied or secured at 8:00 p.m. on election day, the ballot must be referred to the canvassing board.

(3)) (5) If county auditor staff are present at a ballot deposit site, the county auditor must accept late ballots and refer them to the canvassing board. When a ballot deposit site is secured by one person, a second deposit receptacle, sealed and logged in the county auditor's office, must be provided to serve as a receptacle for late ballots.

(6) Within twenty-five feet of a ballot deposit site that is not located within a voting center, no person may electioneer, circulate campaign material, solicit petition signatures, or interfere with or impede the voting process. Whenever it is necessary to maintain order around a ballot deposit site, the county auditor may contact a law enforcement agency for assistance.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

WAC 434-250-130 Maintenance of an audit trail.

Each county auditor shall maintain an audit trail with respect to the processing of ballots, which shall include, but not be limited to, the following:

(1) A record of the date the ballot was mailed or issued, and the date the ballot was received;

(2) The number of ballots issued ~~((and returned, by legislative and congressional district, for each primary and general election))~~ by precinct;

(3) A record of the disposition of each request for a ballot that was not honored;

(4) A record of the disposition of each returned ballot that was not counted;

(5) A record of the time and place each time the county canvassing board met; and

(6) Documentation of the security procedures undertaken to protect the integrity of all ballots after receipt, including the seal numbers used to secure the ballots during all facets of the process.

AMENDATORY SECTION (Amending WSR 16-13-063, filed 6/13/16, effective 7/14/16)

WAC 434-261-020 ((Political party)) Observers.

Counting center operations shall be observed by at least one representative from each political party, if representatives have been appointed by the respective political parties and

those representatives are present while the counting center is in operation.

Prior to processing ballots for a primary or election, the county auditor shall notify the major political parties in writing of the maximum number of official observers allowed to observe ballot processing and the date ballot processing begins. Where more than one observer is appointed, the political party shall designate one of the observers as supervisor. The county auditor may require observers to receive training with respect to ballot processing procedures and the vote tallying system.

Before final assignment as observers, major political party representatives so appointed shall be reviewed by the county auditor, who may refuse to approve any person so appointed. In the event the auditor rejects a person designated, he or she shall promptly notify the political party concerned and request that a substitute observer be appointed, and shall ensure that the substitute observer is trained.

Representatives of the major political parties appointed as observers shall be identified by roster, including assigned observer stations if more than one in the counting center, and by identification tags which will indicate the observer's name and the party represented.

The counting center is under the direction of the county auditor. All observers are authorized to observe the processing of ballots for the current election as defined by WAC 434-250-110. Observers may not touch or record images of voted ballots, challenge signature check decisions, object to decisions to count or not count votes or ballots, or disrupt ballot processing. The county auditor shall provide written rules for observers. The county auditor may require an observer who does not follow the established rules to leave the counting center.

AMENDATORY SECTION (Amending WSR 11-24-064, filed 12/6/11, effective 1/6/12)

WAC 434-261-070 Manual inspection of ballots. (1)

All voting positions on voted ballots shall be manually inspected on both sides of the ballot to determine whether the ballot is readable by the vote tabulating system. The county auditor must ensure that write-in votes are tabulated correctly, consistent with the voter's intent. Ballots must be inspected for overvotes, undervotes, and write-in votes prior to tabulation. This manual inspection is a required part of processing ballots.

(2) The state of Washington is a voter intent state. When a voter's choice or intention can be determined, that vote shall be counted. If the manual inspection process detects any physically damaged ballots, unreadable ballots which might not be correctly counted by the tabulating equipment, or marks that differ from those specified in the voting instructions, ~~((the county auditor shall refer))~~ such ballots ((to the county canvassing board to)) may be duplicated or resolved, if necessary, and counted according to the statewide standards on what is a vote, as provided in WAC 434-261-086. The county canvassing board may authorize the county auditor to duplicate ballots that may be unreadable or uncountable by the tabulating system. Write-in votes without a readable mark in the target area must be duplicated or resolved. The

county canvassing board shall make the final determination of voter intent for ballots not addressed in the statewide standards on what is a vote.

~~((3) The county canvassing board may delegate duplication of the ballots consistent with RCW 29A.60.140.))~~

NEW SECTION

WAC 434-261-112 Direct recording electronic voting devices (DREs). Votes recorded on DREs must be uploaded into the ballot tabulation program or duplicated onto paper ballots. The upload or duplication may take place after election day. DRE data storage must remain in secure storage before and after tabulation.

NEW SECTION

WAC 434-262-016 Canvassing board meeting—Emergency procedure. If a member cannot attend a canvassing board meeting due to an emergency, as defined in the canvassing board's manual, a designee may be appointed according to RCW 29A.60.140 at any time, including the day of the meeting. If a designee cannot be appointed, the member may participate in the meeting remotely.

(1) When ballots are considered during the meeting, the remote member must have access to an online computer application which allows viewing of ballots. Images of ballots cannot be recorded, copied, scanned, emailed, or faxed to the member nor can the member record ballot images. The computer application is not required if ballots are not considered during the meeting.

(2) As per RCW 29A.60.200, all three county canvassing board members or designees must certify an election. If an election is certified during the meeting where a member or designee is attending remotely, a copy of the certification document must be sent electronically to the remote member. The certification document must be signed in the following manner:

(a) The members physically present at the meeting must sign the certification document.

(b) A copy of the certification documentation is sent electronically to the remote member.

(c) The remote member must print the signature page of the certification, sign the page, and return the signed page electronically to the canvassing board meeting location.

(d) The remote member's signed signature page is printed and attached to the certification document signed by the other members of the board, completing the certification document.

AMENDATORY SECTION (Amending WSR 16-13-063, filed 6/13/16, effective 7/14/16)

WAC 434-262-030 County auditor's abstract of votes. The county canvassing board shall meet and canvass all ballots. Upon completion of this canvass ten days after a special election, fourteen days after a primary, and twenty-one days after a general election, the county auditor shall present the auditor's abstract of votes, which must include, at a minimum:

(1) The number of registered voters eligible to vote in the election, by precinct;

(2) The number of ballots cast in the election, by precinct;

(3) The votes cast for each race or issue, including write-ins, undervotes, and overvotes, by precinct;

(4) ~~((Legislative and congressional district subtotals, if any; and~~

~~(5) The))~~ Cumulative vote totals ((by county)) including write-ins, undervotes, and overvotes; and

(5) Individual candidate write-in vote tallies. Write-in votes must be tabulated correctly according to WAC 434-261-070. Individual write-in tallies are required for candidates not appearing on the ballot if the total number of write-ins is greater than the number of votes cast for the candidate elected; or in a primary, the total number of votes cast for either candidate that apparently qualified to appear on the general election ballot. Where there is only one candidate on the ballot in a primary, individual write-in tallies are required if the number of write-ins is greater than one percent of the total votes cast for that office.

Write-in votes for candidates whose names appear on the ballot for that office should be counted according to RCW 29A.60.021. Individual tallies of these write-in votes are required under the circumstances described in RCW 29A.60.-021(3).

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-324-026 Voter registration form.

((

Instructions

Use this form to register to vote or to update an existing registration.

Print all information clearly using black or blue pen.

Mail or deliver this completed form to your county elections department. Addresses are on the next page.

Deadline

This registration will be in effect for the next election if postmarked or delivered no later than the Monday four weeks before Election Day.

If you miss this deadline, contact your county elections department.

Voting

You will receive your ballot in the mail. Contact your county elections department if you wish to vote in person.

Notice

If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to 5 years, a fine of up to \$10,000, or both.

Public disclosure

Your name, address, gender and date of birth are public information.

For more information

web www.vote.wa.gov

call 1-800-448-4881

visit your county elections department

Washington State Voter Registration Form

Register online at www.myvote.wa.gov

1 Personal information

last name first middle

date of birth (mm/dd/yyyy) male female

residential address (in Washington) apt #

city ZIP

mailing address (if different than residential address)

city state / ZIP

phone number (optional) email address (optional)

2 Qualifications

If you mark no to either of these questions, do not complete this form

yes no I am a citizen of the United States of America.

yes no I will be at least 18 years old by the next election.

3 Military / overseas status

I am in the Armed Forces (includes National Guard and Reserves; and military spouses or dependents away from home because of service).

I live outside the U.S.

4 Identification — Washington driver license / ID number

If you do not have a Washington driver license or ID, provide the last four digits of your Social Security number x x x - x x -

5 Former registration

If you are already registered and are changing your name or address, fill out this section (this information will be used to update your registration)

former last name first middle

former residential address city state / ZIP

6 Declaration

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, I will be at least 18 years old when I vote, I am not disqualified from voting due to a court order, and I am not under Department of Corrections supervision for a Washington felony conviction.

sign here [

date here [

)

Fold and seal, or use an envelope

Instructions

Use this form to register to vote or update your current registration.

Print all information clearly using black or blue pen. Mail this completed form to your county elections office (address on back).

Deadline

This registration will be in effect for the next election if postmarked no later than the Monday four weeks before Election Day.

Voting

You will receive your ballot in the mail. Contact your county elections office for accessible voting options.

Public Information

Your name, address, gender, and date of birth will be public information.

Notice

Knowingly providing false information about yourself or your qualifications for voter registration is a class C felony punishable by imprisonment for up to 5 years, a fine of up to \$10,000, or both.

Public Benefits Offices

If you received this form from a public benefits office, where you received the form will remain confidential and will be used for voter registration purposes only.

Registering or declining to register will not affect the assistance provided to you by any public benefits office. If you decline to register, your decision will remain confidential.

If you believe someone interfered with your right to register, or your right to privacy in deciding whether to register, you may file a complaint with the Washington State Elections Division.

Contact Information

If you would like help with this form, contact the Washington State Elections Division.

web www.vote.wa.gov
call (800) 448-4881
email elections@sos.wa.gov
mail PO Box 40229
Olympia, WA 98504-0229

For official use:

2/2016

Washington State Voter Registration Form

Register online at www.myvote.wa.gov.

1 Personal Information

last first middle suffix
date of birth (mm/dd/yyyy) gender
residential address in Washington apt #
city ZIP
mailing address, if different
city state and ZIP
phone number (optional) email address (optional)

2 Qualifications

If you answer no, do not complete this form.
I am a citizen of the United States of America.
I will be at least 18 years old by the next election.

3 Military / Overseas Status

I am currently serving in the military.
I live outside the United States.

4 Identification - Washington Driver License, Permit, or ID

Grid for driver license/ID numbers and Social Security number (xx xx - xx xx -)

5 Change of Name or Address

This information will be used to update your current registration, if applicable.
former last name first middle
former residential address city state and ZIP

6 Declaration

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, I will be at least 18 years old when I vote, I am not disqualified from voting due to a court order, and I am not under Department of Corrections supervision for a Washington felony conviction.

sign here date here

AMENDATORY SECTION (Amending WSR 09-03-110, filed 1/21/09, effective 2/21/09)

WAC 434-379-005 Filing of an initiative or referendum—Fee—Required documents. A person desiring to file with the secretary of state a proposed initiative to the people, initiative to the legislature, or referendum measure may do so by filing the following documents:

- (1) A legible copy of the measure proposed, or the act or part of such act on which a referendum is desired;
(2) An affidavit declaring under penalty of perjury:
(a) That the person submitting the proposed measure is over eighteen years of age and competent to testify;
(b) That the person submitting the proposed measure is a registered voter in the state of Washington;

(c) Whether the proposed measure is an initiative to the people, initiative to the legislature, or referendum; and

(d) The subject of the initiative, or the bill number of the legislation being referred; and

(3) A nonrefundable filing fee of five dollars for each measure submitted.

The proposed measure is not considered filed with the secretary of state until all documents and fees are filed, including any original versions required.

Once the proposed text to an initiative or referendum is filed, the secretary of state shall submit the text with required information to the code reviser within one business day.

AMENDATORY SECTION (Amending WSR 16-13-063, filed 6/13/16, effective 7/14/16)

WAC 434-379-008 Petition requirements. (1) Petitions must be at least eleven inches wide by fourteen inches long.

(2) Petitions must include:

(a) The initiative or referendum number;

(b) The ballot title, which must include:

(i) The subject, not more than ten words;

(ii) The concise description, not more than thirty words;

and

(iii) The question.

(c) The form and text required by:

(i) RCW 29A.72.110 for an initiative to the legislature;

(ii) RCW 29A.72.120 for an initiative to the people; or

(iii) RCW 29A.72.130 for a referendum measure.

(d) The warning in RCW 29A.72.140, printed on the front to cover at least four square inches;

(e) Numbered lines, not more than twenty, with space for each person to provide his or her:

(i) Original signature;

(ii) Printed name; and

(iii) Address, city, and ~~((county))~~ zip code where registered to vote.

(f) A blank space on the bottom left hand corner of the front side, one and one-half inch square;

(g) The full text of the measure printed on the back;

(h) The circulator's declaration printed on the back; and

(i) Petition sheets printed with a one-inch margin on the bottom may be submitted through December 31, 2016.

AMENDATORY SECTION (Amending WSR 14-06-040, filed 2/26/14, effective 3/29/14)

WAC 434-379-009 Processing filed petitions. (1) To allow for sufficient personnel to accept and process signed petitions, the sponsor of an initiative or referendum must make an appointment to file the signed petitions at least two business days in advance. Pursuant to RCW 29A.72.170, the secretary of state must reject petitions until a sufficient number that meet the minimum signature requirement are filed together. If the petitions are accepted and filed, additional petitions may be submitted until the applicable deadline established by RCW 29A.72.160. When submitting the petitions, the sponsor must also provide the text of the measure, exactly as it was printed on the circulated petitions, in electronic Microsoft Word format.

(2) Upon receipt of the petitions, the office of the secretary of state shall count the number of petitions received, and provide that total to the sponsor.

(3) A petition may not be rejected merely because it includes stray marks, scribbles, notes, or highlighting as long as the printed text on the petition is not illegible.

(4) A petition may not be rejected merely because the circulator's declaration on the back side of the petition is unsigned, or is signed with a stamp. AGO 2006 No. 13; *Washington Families Standing Together v. Secretary of State Sam Reed*, Thurston County Superior Court No. 09-2-02145-4, September 8, 2009.

(5) Once a petition is submitted to the office of the secretary of state, a person may not withdraw his or her signature from a petition. Letters submitted to the secretary of state requesting the removal of a signature from a petition must be retained by the secretary as part of the public record for the petition.

(6) Each petition must be reviewed for fraud, such as patterns of similar handwriting indicating forged signatures.

(7) Each signature line must be reviewed to invalidate:

(a) Obscenities;

(b) ~~((Lines with an out-of-state address;~~

~~((+)))~~ Text that is not a name;

~~((+)))~~ ~~((c))~~ Duplicate names;

~~((+)))~~ ~~((d))~~ Lines that are crossed out and not readable;

~~((+)))~~ ~~((e))~~ Lines that include a name and address that both appear to be fictitious; or

~~((+)))~~ ~~((f))~~ Lines that are blank or unfilled.

(8) The following characteristics of a signature line do not, by themselves, invalidate the signature:

(a) A name that is fictitious with an address that does not appear to be fictitious. Lines that include a name that appears to not be fictitious but an address that does appear to be fictitious, or vice versa;

(b) Lines that are crossed out but still readable;

(c) Lines that are missing a printed name;

(d) Lines that are missing any portion of the address;

(e) Multiple lines that have similar handwriting, as long as the signature handwriting is not similar;

(f) Lines in which the signature, printed name, or address is written in the wrong field; or

(g) Signatures, printed names, or addresses written in the margin.

(9) After each signature line has been reviewed, the remaining signatures must be counted to obtain the total number of signatures submitted. That total must be provided to the sponsor.

(10) The secretary of state must verify either a random sample of the signatures submitted using the statistical formula authorized by RCW 29A.72.230 and established in WAC 434-379-010, or all of the signatures submitted. If the measure does not qualify for the ballot based on a random sample, the secretary of state must proceed to a full check of all signatures submitted. The secretary of state must follow WAC 434-379-020 to verify signatures.

WSR 17-08-102
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Developmental Disabilities Administration)
 [Filed April 5, 2017, 11:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-04-083.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-845-0603 Who is eligible to receive community access services?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on May 9, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than May 10, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5:00 p.m., May 9, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, phone (360) 664-6092, TTY (360) 664-6178, or email KildaJA@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending WAC 388-845-0603 to clarify the eligibility requirements and the nine-month supported employment exceptions for community access services.

Reasons Supporting Proposal: These amendments are necessary to protect public health, safety, and welfare.

Statutory Authority for Adoption: RCW 71A.12.030.

Statute Being Implemented: RCW 71A.12.030.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, (360) 407-1581; Implementation and Enforcement: Branda Matson, P.O. Box 45310, Olympia, WA 98504-5310, (360) 407-1522.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendments clarify the language of the rule as described under RCW 34.05.310 (4)(d). The amendments clarify eligibility requirements and the nine-month supported employment exceptions for community access services.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed amendments clarify the language of the rule and are not a significant legislative rule under RCW 34.05.328 (5)(b)(iv).

April 5, 2017
 Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-24-045, filed 11/26/13, effective 1/1/14)

WAC 388-845-0603 Who is eligible to receive community access services? You are eligible ~~((to receive))~~ for community access services ~~((when))~~ if you are enrolled in the basic plus or core waivers and ~~((you meet one of the following conditions below))~~:

(1) You are ~~((age))~~ sixty-two or older; or

(2) You ~~((are twenty-one or older))~~ meet age requirements under WAC 388-845-2110(1) and:

(a) You have participated in ~~((a DDA))~~ the developmental disabilities administration (DDA's) supported employment ~~((program))~~ services for nine consecutive months; or

~~((3)) You and/or your legal representative request that DDA grant an exception, per chapter 71A.12 RCW, to the requirement that you participate in an employment program for nine months prior to transitioning to a community access service)) (b) DDA has determined that you are exempt from the nine-month DDA supported employment service requirement because:~~

~~((a) You have a)) (i) Your medical or behavioral health records document a condition that ~~((requires hospitalization or ongoing care by a medical professional and that affects your ability to participate in daily activities to the degree that employment would:))~~ prevents you from completing nine consecutive months of DDA supported employment services; or~~

~~((i) Result in a significant decline in your ability to function; or))~~

(ii) ~~((Seriously endanger your health.~~

~~(b)) You ~~((have been available for employment planning activities and an employment provider has))~~ were referred to and were available for DDA supported employment services, but the service was not ~~((provided services))~~ delivered within ninety days of ~~((your request for employment services))~~ the referral.~~