

**WSR 08-23-067**  
**EXPEDITED RULES**  
**DEPARTMENT OF REVENUE**

[Filed November 18, 2008, 8:15 a.m.]

Title of Rule and Other Identifying Information: WAC 458-07-030 True and fair value—Defined—Criteria—Highest and best use—Data from property owner and WAC 458-07-030 defines the phrase "true and fair value," and explains how an assessor should determine true and fair value when valuing property.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Marilou Rickert, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-0127, e-mail MarilouR@DOR.WA.GOV, AND RECEIVED BY January 20, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-07-030 is being revised to conform to HB 1450 (chapter 301, Laws of 2007). HB 1450 exempts rental properties for very low-income households owned or used by nonprofit entities if the households have received financial assistance from:

- A federal program administered by a city or county government; or
- Surcharges authorized by RCW 36.22.178 and 36.22.179 and any of the surcharges authorized in chapter 43.185C RCW.

HB 1450 also amended RCW 84.40.030 to specify that the highest and best use of a parcel cannot be in conflict with zoning or land use or planning laws or other governmental restrictions. Further, for property assessments, consideration the assessor is directed/should be given to any agreement with a government agency that restricts rental income, appreciation, and liquidity, and to the impact of government restrictions on operating expenses and on ownership rights.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>.

Reasons Supporting Proposal: To recognize HB 1450 (chapter 301, Laws of 2007).

Statutory Authority for Adoption: RCW 84.08.070.

Statute Being Implemented: RCW 84.40.030.

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

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

Name of Agency Personnel Responsible for Drafting: Marilou Rickert, 1025 Union Avenue S.E., Suite 544, Olympia, WA, (360) 570-6115; Implementation and Enforcement:

Brad Flaherty, 1025 Union Avenue S.E., Suite 200, Olympia, WA, (360) 570-5860.

November 17, 2008

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 00-01-043, filed 12/7/99, effective 1/7/00)

**WAC 458-07-030 True and fair value—Defined—Criteria—Highest and best use—Data from property owner.** (1) **True and fair value—Defined.** All property must be valued and assessed at one hundred percent of true and fair value unless otherwise provided by law. "True and fair value" means market value and is the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might in reason be applied.

(2) **True and fair value—Criteria.** In determining true and fair value, the assessor may use the sales (market data) approach, the cost approach, or the income approach, or a combination of the three approaches to value. The provisions of (b) and (c) of this subsection, the cost and income approaches, respectively, shall be the dominant factors considered in determining true and fair value in cases of property of a complex nature, or property being used under terms of a franchise granted by a public agency, or property being operated as a public utility, or property not having a record of sale within five years and not having a significant number of sales of comparable property in the general area. When the cost or income approach is used, the assessor shall provide the property owner, upon request, with the factors used in arriving at the value determined, subject to any lawful restrictions on the disclosure of confidential or privileged tax information.

(a) **Sales.** Sales of the property being appraised or sales of comparable properties that occurred within five years of January 1st of the assessment year are valid indicators of true and fair value. In valuing property, the following shall be considered:

(i) Any governmental policies or practices, regulations or restrictions in effect at the time of appraisal that affect the use of property, including a comprehensive land use plan, developmental regulations under the Growth Management Act (chapter 36.70A RCW), and zoning ordinances. No appraisal may assume a land usage or highest and best use not permitted under existing zoning or land use planning ordinances or statutes or other government restrictions, unless such usage is otherwise allowed by law;

(ii) Physical and environmental influences that affect the use of the property;

(iii) When a sale involves a real estate contract, the extent, if any, to which the down payment, interest rate, or other financing terms may have increased the selling price;

(iv) The extent to which the sale of a comparable property actually represents the general effective market demand for property of that type, in the geographical area in which the property is located; and

(v) Sales involving deed releases or similar seller-developer financing arrangements shall not be used as sales of comparable property in determining value.

(b) **Cost.** In determining true and fair value, consideration may be given to cost, cost less depreciation, or reconstruction cost less depreciation.

(c) **Income.** In determining true and fair value, consideration may be given to the capitalization of income that would be derived from prudent use of the property, as limited by law or ordinance. Consideration should be given to any agreement between an owner of rental housing and any government agency that restricts rental income, appreciation, and liquidity and to the impact of government restrictions on operating expenses and on ownership rights in general of such housing.

(d) **Manuals.** Appraisal manuals or guides published or approved by the department of revenue shall be considered in conjunction with the three approaches to value. The data contained in these manuals or guides must be analyzed and adjusted by the assessor to consider time, location, and any other applicable factors to properly reflect market value in the county.

(3) **True and fair value—Highest and best use.** Unless specifically provided otherwise by statute, all property shall be valued on the basis of its highest and best use for assessment purposes. Highest and best use is the most profitable, likely use to which a property can be put. It is the use which will yield the highest return on the owner's investment. Any reasonable use to which the property may be put may be taken into consideration and if it is peculiarly adapted to some particular use, that fact may be taken into consideration. Uses that are within the realm of possibility, but not reasonably probable of occurrence, shall not be considered in valuing property at its highest and best use.

(4) **Valuation of land and improvements.** In valuing any lot, tract, or parcel of real property, the assessor must determine the true and fair value of the land, excluding the value of any structures on the land and excluding the value of any growing crops. The assessor must also determine the true and fair value of any structure on the land. The total value of the land and the structures must not exceed one hundred percent of the true and fair value of the total property as it exists at the time of appraisal.

(5) **Valuation data from property owners.** The assessor may require property owners to submit pertinent data regarding property in their control, including sales data, costs and characteristics of improvements, and other facts necessary for appraisal of the property.

### WSR 08-23-068

#### EXPEDITED RULES

#### DEPARTMENT OF REVENUE

[Filed November 18, 2008, 8:16 a.m.]

Title of Rule and Other Identifying Information: WAC 458-16-560 Housing for very low-income households, this rule explains the exemption that may be claimed by nonprofit entities providing rental housing or lots for mobile homes

within a mobile home park for occupancy by a very low-income household in accordance with RCW 84.36.560.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Marilou Rickert, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-0127, e-mail MarilouR@DOR.WA.GOV, AND RECEIVED BY January 20, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-16-560 is being revised to incorporate provisions of HB 1450 (chapter 301, Laws of 2007). HB 1450 amended RCW 84.36.560 by adding a federal program administered by a city or county government and document recording fee surcharges imposed for the purpose of affordable housing development or to reduce homelessness to the sources of financial assistance that rental properties for very low-income households owned or used by nonprofit entities may receive and be exempt from property taxes.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>.

Reasons Supporting Proposal: The rule needs to recognize legislative changes to RCW 84.36.560.

Statutory Authority for Adoption: RCW 84.36.865 and 84.36.560.

Statute Being Implemented: RCW 84.36.560.

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

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

Name of Agency Personnel Responsible for Drafting: Marilou Rickert, 1025 Union Avenue S.E., Suite 544, Olympia, WA, (360) 570-6115; Implementation and Enforcement: Brad Flaherty, 1025 Union Avenue S.E., Suite 200, Olympia, WA, (360) 570-5860.

November 17, 2008

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-15-020, filed 7/8/02, effective 8/8/02)

**WAC 458-16-560 Housing for very low-income households.** (1) **Introduction.** This rule explains the exemption that may be claimed by nonprofit entities providing rental housing or lots for mobile homes within a mobile home park for occupancy by a very low-income household in accordance with RCW 84.36.560.

(2) **Definitions.** For the purposes of this rule, the following definitions apply:

(a) "CTED" means the state department of community, trade, and economic development or its successor agency;

(b) "Department" means the state department of revenue;

(c) "Group home" means a single-family dwelling financed, in whole or in part, by the state department of community, trade, and economic development or by an affordable housing levy under RCW 84.52.105. A "group home" has multiple units occupied on a twenty-four-hour basis by persons who are not related by birth or marriage and who are not dependent upon each other financially. Residents of a "group home" typically receive financial assistance from the federal or state government, such as Social Security benefits or supplementary security insurance;

(d) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;

(e) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing or mobile home park becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted;

(f) "Rental housing" means a residential housing facility or group home that is occupied, but not owned, by very low-income households;

(g) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located. The median income level is that which is in effect as of January 1st of the year the application for exemption is submitted; and

(h) "Nonprofit entity" means a:

(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended;

(ii) Limited partnership in which a general partner is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2)(a); or

(iii) Limited liability company in which a managing member is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2)(a).

**(3) Total exemption - Requirements for rental housing or lot(s) for a mobile home.** Real and personal property is exempt from all property taxes if:

(a) The property is owned or used by a nonprofit entity in providing rental housing for very low-income households or used to provide a lot of land upon which a mobile home for a

very low-income household will be placed in a mobile home park;

(b) The benefit of the exemption is received by the nonprofit entity. That is, if the property is leased to or used by, but not owned by, a nonprofit entity, the reduction in property taxes due to the exemption is passed on to the nonprofit user either through a reduction in rent, reimbursement of rent, or property tax paid;

(c) At least seventy-five percent of the occupied dwelling units in the rental housing or lots in the mobile home park are occupied by very low-income households; and

(d) The rental housing or lots in the mobile home park are insured, financed, or assisted, in whole or in part, through one or more of the following sources:

(i) A federal or state housing program administered by CTED; ~~((or))~~

(ii) A federal housing program administered by a city or county government;

(iii) An affordable housing levy authorized under RCW 84.52.105; or

(iv) The surcharges authorized by RCW 36.22.178 and 36.22.179 and any of the surcharges authorized in chapter 43.185C RCW.

**(4) Partial exemption - Determination of the amount of exemption.** If less than seventy-five percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by very low-income households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption on the housing's or park's personal property. The property must be owned or used by a nonprofit entity in providing rental housing for very low-income households or used to provide a lot upon which a mobile home for a very low-income household will be placed in a mobile home park.

(a) A partial exemption will be allowed for each dwelling unit in the rental housing or for each lot in the mobile home park occupied by a very low-income household; and

(b) The amount of the real property exemption will be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The formula for determining the fraction is as follows:

(i) The numerator of the fraction is the number of dwelling units or lots occupied by very low-income households as of December 31st of the first assessment year in which the rental housing facility or mobile home park becomes operational or on January 1st of each subsequent assessment year in which the claim for exemption is submitted; and

(ii) The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year in which the rental housing facility or mobile home park becomes operational or on January 1st of each subsequent assessment year in which the claim for exemption is submitted.

**(5) Exempt facility with only three or less units or mobile home park with only three or less lots with vacancy on January 1st - Size of exemption.** If the rental housing or mobile home park is comprised of *only* three or less dwelling units or lots and there are any unoccupied dwelling units or lots on January 1st after receipt of a prop-

erty tax exemption, the department will determine the size of the exemption based on the number of occupied dwelling units or lots on May 1st of the assessment year in which a claim for exemption is submitted. For example, if one-half of an exempt duplex is vacant on January 1st, which is the duplex's third year of operation, the department will determine the size of the exemption based on the number of occupied units on May 1st of that assessment year.

**(6) Facilities with ten or less units or mobile home parks with ten or less lots - Allowance for income growth.** Because the occupants of rental housing and mobile home parks granted an exemption under RCW 84.36.560 are generally attempting to improve their financial situation, the income of the household is likely to fluctuate during the time they occupy the housing unit or lot in the mobile home park.

(a) In an attempt to assist these households in improving their circumstances, the exemption will continue for specific rental units or mobile home lots when the household's income rises above fifty percent of median income under the following conditions:

(i) The currently exempt rental housing unit in a facility with ten units or fewer or mobile home lot in a mobile home park with ten lots or fewer was occupied by a very low-income household at the time the exemption was granted;

(ii) The household's income rises above fifty percent of the median income but remains at or below eighty percent of median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located; and

(iii) The rental housing or mobile home park continues to meet the certification requirements of a very low-income housing program (~~administered by CTED or the affordable housing levy under RCW 84.52.105~~) listed in subsection (3)(d) of this section; and

(b) If a dwelling unit or mobile home lot receiving an exemption under this exception becomes vacant and is subsequently rented, the income of the household moving into the unit or onto the mobile home lot must be at or below fifty percent of the median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located to remain exempt from property tax.

(c) Example. If a unit is occupied by a household whose income rises up to sixty percent of median income, the unit will retain its exempt status as long as the household continues to occupy the unit and the household's income remains below eighty percent of median income. If the residents of this unit move out on June 1st and the unit is subsequently rented to a household whose income is at or below fifty percent of median income, the unit will retain its exempt status. Conversely, if the unit is rented to a household whose income is above fifty percent of median income, the unit becomes ineligible for exemption as of January 1st of the following year.

**(7) Group homes - Income of residents.** The income of the individual residents of a group home, as defined in subsection (2) of this rule, will not be combined so as to constitute the income of a single household. Each resident will be

considered an independent household occupying a separate dwelling unit. In other words, the income of the residents of a group home will not be aggregated when the department determines the size of the exemption the group home is entitled to receive. For example, if there are six residents in a group home, the department will process the application for exemption as if there were six separate dwelling units and determine the size of the exemption on that basis. If three of the residents have income at or below fifty percent of median income, the home will receive a fifty percent reduction in the property taxes due on the home.

**(8) Eligibility of property unoccupied at the time of initial application or at any time after the exemption is granted.** Property that is unoccupied at the time of application or on January 1 of any subsequent year is still eligible for exemption if certain conditions are met. If the property is currently taxable, it may receive exempt status as of the assessment year in which the claim for exemption is submitted. If the property is currently exempt but the exempt use will cease or will be reduced because of renovations or repairs, the exempt status of the property may be continued for taxes payable the next year. The following conditions must be satisfied to receive an exemption under either of these circumstances:

(a) The rental housing or mobile home park will be used for the exempt purpose stated in RCW 84.36.560 within two assessment years;

(b) The nonprofit entity applying for or receiving the exemption has obtained a commitment for financing, in whole or in part, to acquire, construct, remodel, renovate, or otherwise convert the property to provide housing for very low-income households from(=

~~(i) A federal or state housing program administered by CTED; or~~

~~(ii) An affordable housing levy authorized under RCW 84.52.105)) one or more of the sources listed in subsection (3)(d) of this section;~~

(c) The nonprofit entity has manifested its intent in writing to construct, remodel, renovate, or otherwise convert the rental housing or mobile home park to housing for very low-income households; and

(d) If less than the entire facility or mobile home park will be used to provide rental housing or mobile home lots for very low-income households, only that portion that will be so used is entitled to an exemption under this subsection.

**(9) Exclusive use required.** To be exempt under RCW 84.36.560, the property must be exclusively used to provide rental housing or mobile home lots for very low-income households, except as provided in RCW 84.36.805.

**(10) Payments in-lieu of property tax will be accepted.** Any nonprofit entity that qualifies for a property tax exemption under RCW 84.36.560 may agree to make payments to the city, county, or other political subdivision for the improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the exempt rental housing facility or mobile home lots. However, these payments may not exceed the amount of property tax last levied as the annual tax by the city, county, or political subdivision upon the property prior to the time the exemption was effective.

**WSR 08-23-069**  
**EXPEDITED RULES**  
**DEPARTMENT OF REVENUE**

[Filed November 18, 2008, 8:18 a.m.]

Title of Rule and Other Identifying Information: WAC 458-15-100 Appeals, describes the availability of an appeal from a determination of eligibility of special valuation.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Marilou Rickert, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-0127, e-mail MarilouR@DOR.WA.GOV, AND RECEIVED BY January 20, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-15-100 is being amended to update citations and other statutory references.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>.

Reasons Supporting Proposal: To recognize citation changes resulting from past legislation.

Statutory Authority for Adoption: RCW 84.08.010(2) and 84.08.070.

Statute Being Implemented: RCW 84.08.010(2), 84.08.-070, 84.40.038, and 34.05.510 through 34.05.598.

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

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

Name of Agency Personnel Responsible for Drafting: Marilou Rickert, 1025 Union Avenue S.E., Suite 544, Olympia, WA, (360) 570-6115; Implementation and Enforcement: Brad Flaherty, 1025 Union Avenue S.E., Suite 200, Olympia, WA, (360) 570-5860.

November 17, 2008

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 87-05-022, filed 2/13/87)

**WAC 458-15-100 Appeals.** (1) The owner may appeal a determination of eligibility of special valuation by a local review board to superior court under ~~((RCW 34.04.130))~~ RCW 34.05.510 through 34.05.598 or to the legislative authority if local ordinances so provide.

(2) Disqualification or removal of the property from special valuation may be appealed to the county board of equalization ~~((within thirty days of being notified of the disqualifi-~~

~~cation or removal, or July 15th of the current year, whichever is later))~~ in accordance with RCW 84.40.038.

**WSR 08-23-070**  
**EXPEDITED RULES**  
**DEPARTMENT OF REVENUE**

[Filed November 18, 2008, 8:20 a.m.]

Title of Rule and Other Identifying Information: WAC 458-12-140 Taxing district boundaries—Designation of tax code area, this rule explains when the boundaries of a taxing district must be established for the purpose of levying property taxes. It also explains the requirement that county assessors must transmit taxing district boundary information to the property tax division of the department of revenue when there is a change in taxing district boundaries or when a new taxing district is established, and provides guidance to assessors in designating tax code areas to be used in the listing of real and personal property.

**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Marilou Rickert, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-0127, e-mail MarilouR@DOR.WA.GOV, AND RECEIVED BY January 20, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 458-12-140 is being revised to incorporate provisions of ESSB 5836 (chapter 285, Laws of 2007) and ESB 6663 (chapter 86, Laws of 2008). ESSB 5836 changes the date that taxing district boundaries are established for property tax purposes to August 1 for all taxing jurisdictions. ESB 6663 extensively revised RCW 84.09.030 to correct and clarify its provisions and to remove obsolete sections.

Copies of draft rules are available for viewing and printing on our web site at <http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>.

Reasons Supporting Proposal: To recognize provisions of ESSB 5836 and ESB 6663.

Statutory Authority for Adoption: RCW 84.08.010.

Statute Being Implemented: RCW 84.09.030.

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

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

Name of Agency Personnel Responsible for Drafting: Marilou Rickert, 1025 Union Avenue S.E., Suite 544, Olympia, WA, (360) 570-6115; Implementation and Enforcement:

Brad Flaherty, 1025 Union Avenue S.E., Suite 200, Olympia, WA, (360) 570-5860.

November 17, 2008  
Alan R. Lynn  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 02-14-011, filed 6/20/02, effective 7/21/02)

**WAC 458-12-140 Taxing district boundaries—Designation of tax code area.** (1) **Introduction.** This rule explains when the boundaries of a taxing district must be established for the purpose of levying property taxes. No property tax levy can be made for a given year on behalf of any taxing district whose boundaries are not established as of the dates provided in this rule. This rule also explains that county assessors are required to transmit taxing district boundary information to the property tax division of the department of revenue (department) when there is a change in taxing district boundaries or when a new taxing district is established. Lastly, this rule provides guidance to assessors in designating tax code areas to be used in the listing of real and personal property.

For purposes of this rule, the definition of "taxing district" is the same as in WAC 458-19-005.

(2)(a) **Establishment of taxing district boundaries.** Except as ~~((follows))~~ set forth in (b) and (c) of this subsection, for the purpose of property taxation and the levy of property taxes, the boundaries of counties, cities, and all other taxing districts ~~((, for purposes of property taxation and the levy of property taxes,))~~ must be the established official boundaries of the taxing districts existing on ~~((March))~~ August 1st of the year in which the property tax levy is made.

~~((a))~~ **Boundaries of certain newly incorporated taxing districts.** The official boundaries of certain newly incorporated taxing districts will be established at a different date in the year in which the incorporation occurred as follows:

(i) **Newly incorporated cities.** Boundaries for a newly incorporated city must be the established official boundaries existing on March 31st of the year in which the initial property tax levy is made. The boundaries of a road district, library district, or fire protection district or districts, that include any portion of the area that was incorporated within the boundaries of a newly incorporated city, must be altered as of March 31st to exclude this area if the budget for the newly incorporated city is filed as provided in RCW 84.52-020 and the levy request of the newly incorporated city is made in accordance with RCW 84.52-070. Whenever a proposed city incorporation is on the March special election ballot, the county auditor must submit the legal description of the proposed city to the department on or before March 1st.

~~((ii))~~ (b) **Newly incorporated port districts and regional fire protection service authorities.** The boundaries for a newly incorporated port district or regional fire protection service authority must be the established official boundaries existing on October 1st of the year in which the initial property tax levy is made if the boundaries of the newly incorporated port district or regional fire protection service authority are coterminous with the boundaries of

another taxing district or districts, as they existed on ~~((March))~~ August 1st of that year.

~~((iii))~~ **Newly incorporated water sewer districts.** Boundaries for a newly incorporated water sewer district must be the established official boundaries existing on June 15th of the year in which the proposition under RCW 57.04-050 is approved authorizing a water sewer district excess levy.

~~((iv))~~ **Other newly incorporated taxing districts.** Boundaries of any other newly incorporated taxing district must be the established official boundaries existing on June 1st of the year in which the initial property tax levy is made if the taxing district has boundaries coterminous with the boundaries of another taxing district, as they existed on March 1st of that year.

~~((b))~~ (c) **Mosquito control districts.** Boundaries of a mosquito control district must be the established official boundary existing on September 1st of the year in which the property tax levy is made.

~~((e))~~ **Addition or removal of property from a taxing district after March 1st.** Except as otherwise provided in this rule, the boundaries of a taxing district will be established on June 1st if territory with boundaries coterminous with the boundaries of another taxing district as they existed on March 1st of that year has been added to, or removed from, the taxing district after March 1st of that year. The boundaries of a road district, library district, or fire protection district or districts, that include any portion of the area that was annexed to a city or town within its boundaries, must be altered as of June 1st to exclude this area.)

(3) **Withdrawal of certain areas of a library district, metropolitan park district, fire protection district, or public hospital district.** Notwithstanding the provisions of RCW 84.09.030 and subsection (2) of this ~~((rule))~~ section, the boundaries of a library district, metropolitan park district, fire protection district, or public hospital district, that withdraws an area from its boundaries under RCW 27.12.355, 35.61.360, 52.04.056, or 70.44.235, which area has boundaries that are coterminous with the boundaries of a tax code area, will be established as of October 1st in the year in which the area is withdrawn.

(4) **School district boundary changes.** Each school district affected by a transfer of territory from one school district to another school district under chapter 28A.315 RCW must retain its preexisting boundaries for the purpose of the collection of excess tax levies authorized under RCW 84.52-053 before the effective date of the transfer. The preexisting boundaries must be retained for such tax collection years and for such excess tax levies as the regional committee on school district organization (committee) may approve. The committee may order that the transferred territory will either be subject to or relieved of such excess levies. For the purpose of all other excess tax levies previously authorized under chapter 84.52 RCW and all excess tax levies authorized under RCW 84.52.053 subsequent to the effective date of a transfer of territory, the boundaries of the affected school districts must be modified to recognize the transfer of territory subject to RCW 84.09.030 and subsection (2) of this ~~((rule))~~ section.

**(5) Copy of instrument setting forth taxing district boundary changes must be provided to the department.**

Any instrument setting forth the official boundaries of a newly established taxing district, or setting forth any change in taxing district boundaries, that is required by law to be filed in the office of the county auditor or other county official must be filed in triplicate. The county official with whom the instrument is filed must forward two copies of the instrument to the county assessor. The assessor must provide one copy of the instrument, together with a copy of a plat showing the new boundaries, to the property tax division of the department of revenue within thirty days of the establishment of the boundaries of such taxing district.

**(6) Designation of tax code areas.** Assessors must designate the name or number of each tax code area in which each description of real or personal property is located and assessed. The tax code area designation must be entered opposite each assessment in a column provided for that purpose in the detail and assessment list.

For purposes of this rule, the definition of "tax code area" is the same as in WAC 458-19-005.

**(a) Personal property.** Assessors must designate the tax code area on all listings of personal property in accordance with the applicable rules controlling "taxable situs" as of the assessment date.

**(b) Property located in more than one tax code area.** When real and personal property of any person is located and assessable in more than one tax code area, a separate listing must be made on the detail and assessment list and identified by the name or number of the tax code area in which each portion of the property or properties is located.

**WSR 08-23-086**  
**EXPEDITED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed November 18, 2008, 2:15 p.m.]

Title of Rule and Other Identifying Information: Personal protective equipment, WAC sections found in chapter 296-32 WAC, Safety standards for telecommunications; chapter 296-45 WAC, Safety standards for electrical workers; chapter 296-54 WAC, Safety standards—Logging operations; chapter 296-56 WAC, Safety standards—Longshore, stevedore and related waterfront operations; chapter 296-59 WAC, Safety standards for ski area facilities and operations; chapter 296-78 WAC, Safety standards for sawmills and woodworking operations; chapter 296-155 WAC, Safety standards for construction work; chapter 296-800 WAC, Safety and health core rules; chapter 296-809 WAC, Confined spaces; chapter 296-818 WAC, Abrasive blasting; chapter 296-824 WAC, Emergency response; chapter 296-826 WAC, Anhydrous ammonia; chapter 296-843 WAC, Hazardous waste operations; and chapter 296-848 WAC, Arsenic.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Joshua Swanson, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY January 20, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Occupational Safety and Health Administration (OSHA) has recently revised several of their rules to clarify the fact that personal protective equipment (PPE) for employees is to be paid for by the employer. The department is proposing to make the same changes to our rules, to remain as-effective-as OSHA as mandated by statute. These changes will make clear that the employer is to provide the necessary PPE at no cost to the employee. Also, some additions are being made to the list of examples of PPE we give to employers, to match the list of examples put out by OSHA.

Reasons Supporting Proposal: The department is required by statute to remain at-least-as-effective-as OSHA. Adopting these changes will keep the department in compliance with the law.

Statutory Authority for Adoption: RCW 49.17.050.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, 29 C.F.R. Parts 1910, 1915, 1917, 1918, 1926.

Name of Proponent: Department of labor and industries, division of occupational safety and health, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Stephen Cant, Tumwater, (360) 902-5495.

November 18, 2008

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 02-12-098, filed 6/5/02, effective 8/1/02)

**WAC 296-32-250 Tools and personal protective equipment—General.** (1) Personal protective equipment (PPE), protective devices and special tools needed for the work of employees shall be provided and the employer shall ensure that they are used by employees.

(a) Before each day's use the employer shall ensure that these personal protective devices, tools, and equipment are carefully inspected by a competent person to ascertain that they are in good condition.

(b) Tools found to be defective shall be taken out of service.

(c) PPE shall be provided at no cost to the employee.

(2) Head protection. Head protection meeting the requirements of ANSI Z89.2-1971, "Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class

B", must be provided whenever there is possible exposure to high voltage electrical contact. Employers must make sure that employees use the head protection.

(3) Eye protection. Protective eye and face equipment shall be required where there is a possibility of injury that can be prevented by such equipment. In such cases, employers shall make conveniently available a type of protector suitable for the work to be performed, and employees shall use such protectors.

Note: See WAC 296-800-160 for additional personal protective equipment requirements.

(4) Tent heaters, torches and open flame. Open flames shall not be used within ground tents or on platforms within aerial tents unless:

(a) The tent covers are constructed of fire resistant materials, and

(b) Ventilation is provided to maintain safe oxygen levels and avoid harmful buildup of combustion products and combustible gases.

(5) Portable power equipment.

(a) All portable power equipment used in the telecommunications industry shall be grounded.

(b) Nominal 120V, or less, portable generators used for providing power at work locations do not require grounding if the output circuit is completely isolated from the frame of the unit.

(c) Grounding shall be omitted when using soldering irons, guns or wire-wrap tools on telecommunication circuits.

(6) Vehicle-mounted utility generators. Vehicle-mounted utility generators used for providing nominal 240V AC or less for powering portable tools and equipment need not be grounded to earth if all of the following conditions are met:

(a) One side of the voltage source is solidly strapped to the metallic structure of the vehicle;

(b) Grounding-type outlets are used, with a "grounding" conductor between the outlet grounding terminal and the side of the voltage source that is strapped to the vehicle;

(c) All metallic encased tools and equipment that are powered from this system are equipped with three-wire cords and grounding-type attachment plugs, except as designated in subsection (7) of this section.

(7) Portable lights, tools and appliances. When operated from commercial power such metal parts of these devices shall be grounded, unless these tools or appliances are protected by a system of double insulation, or its equivalent. Where such a system is employed, the equipment shall be distinctively marked to indicate double insulation.

(8) Lead work. When operated from commercial power the metal housing of electric solder pots shall be grounded. Electric solder pots may be used with the power equipment described in this subsection, without a grounding conductor.

The employer shall ensure that wiping gloves or cloths and eye protection are used in lead wiping operations. A drip pan to catch hot lead drippings shall also be provided and used.

(9) Fire extinguishers.

(a) Fire extinguishers shall be provided for the protection of both the building structure and the occupancy hazards contained therein.

(b) Employees shall be familiar with the location and operation of fire extinguishers.

(c) Any fire extinguishers showing defects shall be removed from service.

(d) Fire extinguishers shall be thoroughly examined and/or recharged or repaired to insure operability and safety once every year.

(e) Each fire extinguisher shall have a durable tag securely attached to show the maintenance or recharge date and the initials or signature of the person performing this service.

Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**WAC 296-45-25505 Personal protective equipment.**

(1) General. Personal protective equipment (PPE) shall meet the requirements of chapter 296-24 WAC, Part L and (~~WAC 296-800-150~~) the PPE requirements in chapter 296-800 WAC. PPE required by these chapters or a hazard assessment will be provided by the employer at no cost to the employee.

(2) All protective hats shall be in accordance with the specifications of ANSI Z89.2-1971 Edition Industrial Protective Helmets for Electrical Workers, Class B, and shall be worn at the job site by employees who are exposed to overhead or electrical hazards.

(3) Wearing apparel. Goggles, hearing protection, respirators, rubber gloves, and other such personal protective devices shall not be interchanged among employees unless they have been sanitized.

AMENDATORY SECTION (Amending WSR 99-17-117, filed 8/18/99, effective 12/1/99)

**WAC 296-54-511 Personal protective equipment (PPE).**

(1) Protective equipment, including personal protective equipment for eyes, face, head, hearing and extremities, protective clothing, respiratory devices and protective shields and barriers, must be used, and maintained in a sanitary and reliable condition wherever it is necessary 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.

(2) Personal protective equipment, including any personal protective equipment provided by an employee, must be maintained in a serviceable condition.

(3) Design. All personal protective equipment must be of safe design and construction for the work to be performed. All safety belts and attachments must meet the requirements of section 3 of ANSI A10.14-1975.

(4) Personal protective equipment, including any personal protective equipment provided by an employee, must be inspected before initial use during each workshift. Defects or damage must be repaired or the unserviceable personal protective equipment must be replaced before work is commenced.



(5) Personal protective equipment required by this standard shall be provided at no cost to the employee.

#### NEW SECTION

**WAC 296-56-60116 Payment for protective equipment.** (1) Except as provided by subsections (2) through (6) of this section, the protective equipment, including personal protective equipment (PPE), used to comply with this part, shall be provided by the employer at no cost to employees.

(2) The employer is not required to pay for nonspecialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and nonspecialty prescription safety eyewear, provided that the employer permits such items to be worn off the job site.

(3) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(4) The employer is not required to pay for:

(a) Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots; or

(b) Ordinary clothing, skin creams, or other items, used solely for protection from the weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(5) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(6) Where an employee provides adequate protective equipment he or she owns, the employer may allow the employee to use it and is not required to reimburse the employee for that equipment. The employer shall not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted by subsections (2) through (6) of this section.

AMENDATORY SECTION (Amending WSR 01-11-038, filed 5/9/01, effective 9/1/01)

**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 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 be responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment.

(c) Design, construction, testing, and use of personal protective equipment shall comply with the requirements of the safety and health core rules, WAC 296-800-160; the Occupational health standards—Safety standards for carcino-

gens, chapter 296-62 WAC; or the currently applicable ANSI standard.

(2) Eye and face protection. Eye and face protective equipment shall 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 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 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 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 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 be worn by all employees.

(b) Where the job assignment includes exposure to slipping hazards, soles and heels of footwear shall 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 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 dictate which type of belt or harness and length of lanyard is used.

(b) Lifelines shall 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 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 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 be used when other acceptable forms of fall protection are not useable. When used, safety nets shall extend a minimum of eight feet beyond the edge offering exposure,

shall be hung with sufficient clearance to prevent user's contact with surfaces or objects below, and shall not be more than twenty-five feet below the fall exposure edge.

**AMENDATORY SECTION** (Amending WSR 08-05-012, filed 2/8/08, effective 4/1/08)

**WAC 296-78-515 Management's responsibility.** (1) It shall 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 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 develop and maintain a chemical hazard communication program as required by WAC 296-800-170, 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 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 be conducted. The investigation shall be conducted by a person designated by the employer, 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 be documented by the employer for reference at any following formal investigation.

(5) Reporting of fatality or hospitalization incidents.

(a) Within eight hours after the fatality or probable fatality of any employee from a work-related incident or the inpatient hospitalization of any employee as a result of a work-related incident, the employer of any employees so affected shall report the fatality/hospitalization by telephone or in person, to the nearest office of the department or by using the OSHA toll-free central telephone number, 1-800-321-6742.

(i) This requirement applies to each such fatality or hospitalization which occurs within thirty days of the incident.

(ii) Exception: If any employer does not learn of a reportable incident at the time it occurs and the incident

would otherwise be reportable under this subsection, the employer shall make a report within eight hours of the time the incident is reported to any agent or employee of the employer.

(iii) Each report required by this subsection shall relate the following information: Establishment name, location of the incident, time of the incident, number of fatalities or hospitalized employees, contact person, phone number, and a brief description of the incident.

(b) Equipment involved in an incident resulting in an immediate or probable fatality or in the in-patient hospitalization of any employee, shall not be moved, until a representative of the department investigates the incident and releases such equipment, except where removal is essential to prevent further incident. Where necessary to remove the victim, such equipment may be moved only to the extent of making possible such removal.

(c) Upon arrival of a department investigator, employer shall assign to assist the investigator, the immediate supervisor and all employees who were witnesses to the incident, or whoever the investigator deems necessary to complete the investigation.

(6) A system for maintaining records of occupational injuries and illnesses as prescribed by chapter 296-27 WAC.

Note: Recordable cases include:

- (a) Every occupational death.
- (b) Every industrial illness.
- (c) Every occupational injury that involves one of the following:
  - (i) Unconsciousness.
  - (ii) Inability to perform all phases of regular job.
  - (iii) Inability to work full time on regular job.
  - (iv) Temporary assignment to another job.
  - (v) Medical treatment beyond first aid.

All employers with eleven or more employees shall record occupational injury and illness information on forms OSHA 101 - supplementary record occupational injuries and illnesses and OSHA 200 - log and summary. Forms other than OSHA 101 may be substituted for the supplementary record of occupational injuries and illnesses if they contain the same items.

(7) Personal protective equipment required by this standard shall be provided at no cost to employees.

**AMENDATORY SECTION** (Amending WSR 04-24-089, filed 12/1/04, effective 1/1/05)

**WAC 296-155-200 General requirements for personal protective equipment (PPE).** (1) Supplying personal protective equipment

(a) Personal protective equipment (PPE) must be used wherever physical contact, absorption, or inhalation of a hazard could cause any injury or impairment to the function of any part of the body.

These hazards include:

- Hazardous processes;
- Environmental hazards;
- Chemical hazards;
- Radiological hazards;

**OR**

- Mechanical irritants.

- Note:** PPE includes:
- Protective equipment for eyes, face, head, hearing, and extremities;
  - Protective clothing;
  - Respiratory devices;
- AND**
- Protective shields and barriers.

(b) PPE must be maintained in a sanitary and reliable condition.

- Reference:** For requirements on maintaining specific personal protective equipment (PPE), see the following rules.
- Chapter 296-842 WAC, Respirators;
- AND**
- Chapter 296-817 WAC, Hearing loss prevention.

(c) If employees provide their own protective equipment, then the employer is responsible to make sure the PPE is:

- Adequate;
- Properly maintained;

**AND**

- Sanitary.

(d) All personal protective equipment must be of safe design and construction for the work to be performed.

(2) Minimum clothing requirements.

(a) Employers must ensure that employees wear at least:

- A short-sleeved shirt;
- Long pants;

**AND**

• Shoes that meet the requirements of WAC 296-155-212, Foot protection.

**Definition:**

A *short-sleeved shirt* covers the top of the shoulder and has material extending down the arm. If a short-sleeved shirt has a seam at the end of the shoulder, the material must extend down the arm from the seam.

*Long pants* have legs that extend past the knee when the wearer stands and leaves no exposed skin on the lower leg.

(b) Where there is a danger of contact with moving parts of machinery, or the work process is such that a hazard exists:

• The clothing of employees must fit closely about the body.

• Dangling neck wear, bracelets, wristwatches, rings, or similar articles must not be worn by employees.

- Note:** For additional related requirements see WAC 296-155-205, Head protection.

(3) The employer must require employees to wear appropriate PPE in all operations where:

- There is an exposure to hazardous conditions;

**OR**

• WAC 296-155-200, General requirements for personal protective equipment (PPE), indicates a need for using such equipment to reduce the hazards to the employees.

(4) Employees must comply with job safety practices and procedures and PPE requirements that are relevant to the job site.

(5) High visibility garments.

(a) During daylight hours, when employees' duties are performed in close proximity to moving vehicles, employers must make sure that employees wear a high-visibility safety vest, shirt, or jacket that is fluorescent yellow-green, fluores-

cent orange-red, or fluorescent red in color. This garment must always be worn as an outer garment.

**Definition:**

For the purpose of this rule, *hours of darkness* means from one-half hour before sunset to one-half hour after sunrise.

(b) During hours of darkness, when employees' duties are performed in close proximity to moving vehicles, the employer must make sure that employees wear, at a minimum, a high-visibility safety vest, shirt, or jacket:

• Designed according to ANSI/ISEA 107-1999 Class 2 specifications;

- Worn as an outer garment;

**AND**

• Worn to provide three hundred sixty degrees of visibility around the employee.

- Note:** A high-visibility garment meets Class 2 specifications if the garment:
- Has an ANSI "Class 2" label;

**OR**

• Has at least seven hundred seventy-five square inches of background material and two hundred one square inches of retroreflective material that encircles the torso and is placed to provide three hundred sixty degrees of visibility around the employee.

- Note:** • Fading and soiling may degrade the high-visibility characteristics of the garments.

• ANSI/ISEA 107-1999 is available by:

– Purchasing copies of ANSI/ISEA 107-1999 by writing:

– American National Standards Institute

11 West 42nd Street

New York, NY 10036

**OR**

– Contacting the ANSI web site at <http://web.ansi.org/>.

**OR**

• Reading a copy of ANSI/ISEA 107-1999 at any Washington state library.

(6) Payment for PPE. Except as provided in (a) through (e) of this subsection, the protective equipment, including PPE, used to comply with this chapter shall be provided by the employer at no cost to employees.

(a) The employer is not required to pay for nonspecialty safety-toe protective footwear (including steel-toe shoes or steel-toe boots) and nonspecialty prescription safety eyewear, provided that the employer permits such items to be worn off the job site.

(b) When the employer provides metatarsal guards and allows the employee, at his or her request, to use shoes or boots with built-in metatarsal protection, the employer is not required to reimburse the employee for the shoes or boots.

(c) The employer is not required to pay for:

• Everyday clothing, such as long-sleeve shirts, long pants, street shoes, and normal work boots;

• Ordinary clothing, skin creams, or other items used solely for protection from weather, such as winter coats, jackets, gloves, parkas, rubber boots, hats, raincoats, ordinary sunglasses, and sunscreen.

(d) The employer must pay for replacement PPE, except when the employee has lost or intentionally damaged the PPE.

(e) Where an employee provides adequate protective equipment he or she owns to meet the requirements of this chapter, the employer may allow the employee to use it and is

not required to reimburse the employee for that equipment. The employer shall not require an employee to provide or pay for his or her own PPE, unless the PPE is excepted in (a) through (d) of this subsection.

AMENDATORY SECTION (Amending WSR 01-04-015, filed 1/26/01, effective 2/28/01)

**WAC 296-155-205 Head protection.** (1) All employees on any construction site shall be provided an individual hard hat which meets all requirements of (a) and (b) of this subsection. ~~((Employers shall provide individual hard hats at no cost to the employees.))~~

(a) Hard hats for the protection of employees against impact and/or penetration of falling and flying objects shall meet the specifications contained in American National Standards Institute, Z89.1-1969, Safety Requirements for Industrial Head Protection.

(b) Hard hats for the head protection of employees exposed to high voltage electrical shock and burns shall meet the specifications contained in American National Standards Institute, Z89.2-1971.

(2) All employees must have their individual hard hats on site and readily available at all times.

(3) All employees shall wear a hard hat on any construction site whenever there is a potential exposure to danger of flying or falling objects to persons working or occupying the area.

Note: The hard hat may be removed whenever there is no potential exposure to a hazard.

(4)(a) Employees working on asphalt paving crews exposed to extreme temperatures from hot mix and not exposed to falling objects do not have to wear protective hard hats.

(b) Flaggers working with asphalt paving operations must comply with the requirements of WAC 296-155-305.

(5) Caps with metal buttons or metal visors shall not be worn around electrical hazards.

(6) Employees working near moving machinery or in locations which present a hair-catching or fire hazard shall wear caps, nets or other head and face protection that will completely contain the hair.

AMENDATORY SECTION (Amending WSR 01-23-060, filed 11/20/01, effective 12/1/01)

**WAC 296-800-16020 Provide PPE to your employees.** You must provide PPE at no cost to employees if the PPE is:

~~((Provide PPE wherever hazards exist from:))~~

- The type that would not reasonably or normally be worn away from the workplace, such as single use or disposable PPE.

- Required to comply with a safety and health standard to protect employees wherever hazards exist from:

- Processes ~~((or the environment))~~
- ~~((Chemical))~~ Environmental hazards
- Physical, chemical, or radiological hazards or

- Mechanical irritants that could cause injury or impairment to the function of any body part through absorption, inhalation, or physical contact.

~~((Provide necessary PPE to employees at no cost to the employee if the PPE:~~

- ~~– Will be used to protect against hazardous materials~~

- ~~– Is the type that would not reasonably or normally be worn away from the workplace, such as single use or disposable PPE.~~

Note: Examples of PPE that the employer ~~must~~ provide are:

- Boots or gloves that could become contaminated with hazardous materials in the workplace.
- Safety glasses, goggles, and nonprescription protective eye wear.
- Goggles that fit over prescription eye wear.
- Hard hats.
- Full body harnesses and lanyards.
- Single use or disposable PPE such as plastic type gloves used in the food service or medical industries.

Examples of PPE that the employer may ~~not~~ have to provide are:

- Coats to protect against inclement weather.
- Leather boots, with or without steel toes, that will not become contaminated on the job.
- Prescription protective eye wear (except as part of a full face piece or hooded respirator.))

**Table-X: Employer Responsibility for Providing PPE**

\*This table provides examples only and is not all-inclusive.

<b>Part of Body</b>	<b>PPE employers are required to provide at no cost to employees.</b>	<b>Items in which employer payment is not required.</b>
<b><u>Head</u></b>	<u>Bump caps.</u> <u>Hard hat.</u> <u>Nonconductive head protection.</u>	==
<b><u>Eye and Face</u></b>	<u>Face shields.</u> <u>Goggles.</u> <u>Laser safety goggles.</u> <u>Nonprescription eye protection.</u> <u>Prescription eye-wear inserts/ lenses for full-face respirators.</u> <u>Welding and diving helmets.</u>	<u>Nonspecialty prescription safety eyewear.</u>
<b><u>Ear</u></b>	<u>Hearing protection.</u>	==
<b><u>Hand/Arm</u></b>	<u>Aluminized gloves.</u> <u>Barrier creams</u> <u>(unless used</u>	<u>Hand protection used only for keeping clean or for cold weather</u>

Part of Body	PPE employers are required to provide at no cost to employees.	Items in which employer payment is not required.
	<p>solely for weather-related protection).                      Chemical resistant gloves/aprons/clothing.                      Mesh cut proof gloves.                      Mesh or leather aprons.                      Nonspecialty gloves if required to protect from dermatitis, severe cuts, or abrasions.                      Rubber insulating gloves.                      Rubber sleeves.</p>	<p>with no safety or health consideration.</p>
<b>Foot</b>	<p>Metatarsal foot protection.                      Rubber boots with steel toes.                      Shoe covers - toe caps and metatarsal guards.                      Special boots for longshoremen working logs.</p>	<p>Nonspecialty safety-toe protective footwear such as steel-toe shoes or boots.                      Sturdy work shoes.                      Lineman's boots.                      Logging boots required under chapter 296-54 WAC.</p>
<b>Other</b>	<p>Atmosphere-supplying respirators (escape only).                      Climbing ensembles used by linemen such as belts and climbing hooks.                       Level A - fully encapsulated chemical protective suits.                      Level B - chemical protective clothing.                      Personal fall arrest systems.                      Personal fall restraint systems.</p>	<p>Long sleeve shirts.                      Long pants.                      Ordinary cold weather gear (coats, parkas, cold weather gloves, winter boots).                      Ordinary rain gear.                      Dust mask/respirators used under the voluntary use provisions in chapter 296-842 WAC.                      Back belts. Sunglasses.                      Sunscreen.</p>

Part of Body	PPE employers are required to provide at no cost to employees.	Items in which employer payment is not required.
	<p>Fire fighting PPE (helmet, gloves, boots, proximity suits, full gear).                      Ladder safety device belts.                      Personal floatation devices (life jackets).                      Class II or III high visibility garments that meet ANSI 107-2004 specifications.                      Respiratory protection.                      SCBA (self-contained breathing apparatus).                      Welding PPE.                      Window cleaner's safety straps.                      Items such as aprons, lab coats, goggles, disposable gloves, shoe covers, etc., used in medical/laboratory settings to protect from exposure to infectious agents.</p>	

**AMENDATORY SECTION** (Amending WSR 04-03-081, filed 1/20/04, effective 5/1/04)

**WAC 296-809-50014 Make sure you have adequate rescue and emergency services available.**

**You must:**

(1) Make sure you have adequate rescue and emergency services available during your permit-required confined space entry operations.

- Evaluate and select rescue teams or services who can:
  - Respond to a rescue call in a timely manner. Timeliness is based on the identified hazards. Rescuers must have the capability to reach potential victims within an appropriate time frame based on the identified permit space hazards.
  - Proficiently rescue employees from a permit-required confined space in your workplace. Rescuers must have the appropriate equipment for the type of rescue.

- Make sure that at least one member of the rescue team or service holds a current certification in first aid and cardiopulmonary resuscitation (CPR).

- Inform each rescue team or service about the hazards they may confront when called to perform rescue.

- Provide the rescue team or service with access to all permit spaces from which rescue may be necessary.

- This will allow them to develop appropriate rescue plans and to practice rescue operations.

**Note:** What will be considered timely will vary according to the specific hazards involved in each entry. For example, chapter 296-842 WAC, Respirators, requires that employers provide a standby person or persons capable of immediate action to rescue employee(s) for work areas considered to contain an IDLH atmosphere.

~~((You must:))~~

(2) ~~((Provide))~~ Employees(;) assigned to provide permit-required confined space rescue and emergency services must be provided, at no cost to the employee, with:

- Personal protective equipment (PPE) needed for safe entry.

- Other equipment required to conduct rescues safely.

- Training so they are:

- Proficient in the use of the PPE and other equipment.

- Proficient as an entrant of permit-required confined spaces.

- Able to safely perform assigned rescue and emergency duties.

- Knowledgeable in basic first aid and cardiopulmonary resuscitation (CPR).

- Practice sessions for permit-required confined space rescues **at least** once every twelve months where dummies, manikins, or actual persons are removed from either:

- The actual permit spaces; or

- Representative permit spaces that simulate the opening size, configuration, and accessibility, of permit spaces where rescue will be performed.

(3) Establish procedures for:

- Contacting rescue and emergency services.

- Rescuing entrants from permit-required confined spaces.

- Providing necessary emergency services to rescued entrants.

- Preventing unauthorized persons from attempting a rescue.

AMENDATORY SECTION (Amending WSR 06-12-074, filed 6/6/06, effective 9/1/06)

**WAC 296-818-20010 Personal protective equipment (PPE).**

**You must:**

- ~~((Supply))~~ Provide, at no cost to the employee, and make sure personal protective equipment is worn.

- Follow the requirements in Table-1, Personal Protective Equipment (PPE).

**Table-1: Personal Protective Equipment (PPE)**

PROVIDE	WHEN
<b>Abrasive Blasting Respirators</b>	Operators work in any of the following situations: <ul style="list-style-type: none"> <li>– Inside blast cleaning rooms</li> <li>– Where silica sand is used in manual blasting operations</li> <li>– Where concentrations of toxic dust exceed the permissible exposure limits found in a separate chapter:                             <ul style="list-style-type: none"> <li>■ Respiratory hazards, WAC 296-841-20020, Table-3 "Exposure Limits for Air Contaminants"</li> </ul> </li> </ul> <p><b>Exemption:</b></p> <ul style="list-style-type: none"> <li>• An abrasive respirator does not need to be worn if the operator is physically separated from the nozzle and blast by an exhaust ventilated enclosure.</li> </ul> <p><b>Definition:</b></p> <p><b>Abrasive-blasting respirator</b> A supplied air or a continuous flow respirator constructed to cover and protect the operator's head, neck and shoulders from rebounding abrasive.</p>
<b>Eye and Face protection to both of the following:</b> <ul style="list-style-type: none"> <li>– Blasting operators</li> <li>– Personnel working near blasting operations</li> </ul>	Respirators worn during blasting operations do not provide eye and face protection
<b>Gloves and Aprons made of heavy canvas or leather;</b> <b>OR</b> <b>Equivalent protection</b>	Operators are exposed to the impact of rebounding abrasives

**Notes:** • Use only respirators certified by NIOSH in 42 C.F.R. Part 84 for protecting employees from dusts, and other hazards produced during abrasive blasting operations, like:

- Using a garnet sand to blast a concrete surface, resulting in crystalline silica dust

- A filtering face piece may be used only for short, intermittent, or occasional dust exposures for any of the following tasks:

- To protect the operator during abrasive blasting operations performed outside the enclosure or outdoors where nonsilica abrasives are used on materials with low toxicity

- Clean-up

- Dumping dust collectors

- Unloading shipments of sand at receiving areas when the following controls are not feasible:

- Enclosures

- Exhaust ventilation

**OR**

- Other means

- Reference:**
- For additional requirements to help you fully protect employees, go to the following separate chapters:
    - The Safety and health core rules, chapter 296-800 WAC:
      - Personal protective equipment (PPE), WAC 296-800-160
      - Respiratory hazards, chapter 296-841 WAC
      - Respirators, chapter 296-842 WAC:
        - Respirator program, WAC 296-842-120
        - Specifications for air quality, WAC 296-842-200

**AMENDATORY SECTION** (Amending WSR 05-03-093, filed 1/18/05, effective 3/1/05)

**WAC 296-824-60005 Personal protective equipment.**

Use appropriate personal protective equipment (PPE).

- Note:**
- Only properly trained employees should select PPE. Hazardous materials technicians and hazardous materials specialists can select PPE within the competencies specified in Table 4.
  - Selection requirements in other PPE rules also apply, including:
    - WAC 296-800-160, Personal protective equipment.
    - Chapter 296-842 WAC, Respirators.
    - WAC 296-24-58505, Fire brigades.
    - Chapter 296-305 WAC, Safety standards for fire fighting.

**You must:**

- Provide ((employees with)) appropriate PPE at no cost to the employees and make sure it is used if hazards could be present.
  - Select PPE (such as respirators, gloves, protective suits and other PPE) based on:
    - ◆ An evaluation of the performance characteristics (such as breakthrough time and hazardous substance-specificity of the material or item) relevant to the requirements and limitations of the site.
      - ◆ Task-specific conditions and durations.
      - ◆ The hazards and potential hazards of the site (see Table 9, Selecting PPE for Specific Hazards).
    - Select totally encapsulating chemical protective (TECP) suits, as specified in Table 9, that:
      - ◆ Maintain positive air pressure.
      - ◆ Prevent inward test gas leakage of more than 0.5 percent.

**Note:** Follow the manufacturer's recommended procedure for testing a TECP suit's ability to maintain positive air pressure and prevent inward gas leakage. Other established test protocols for these suits, for example NFPA 1991 and ASTM F1052-97, may also be used.

<b>Table 9 Selecting PPE for Specific Hazards</b>	
<b>If:</b>	<b>Then:</b>
<ul style="list-style-type: none"> <li>• Inhalation hazards could be present.</li> </ul>	<ul style="list-style-type: none"> <li>• Positive-pressure (pressure-demand) self-contained breathing apparatus (SCBA)</li> <li><b>OR</b></li> <li>• A decreased level of respiratory protection only when the incident commander determines, from air monitoring results, that employees will be adequately protected.</li> </ul>
Chemical exposure levels will create a substantial possibility of: <ul style="list-style-type: none"> <li>• Immediate death.</li> <li>• Immediate serious illness or injury.</li> <li>• Reduced ability to escape.</li> </ul>	Either positive-pressure (pressure-demand): <ul style="list-style-type: none"> <li>• SCBA</li> <li>• Air-line respirators equipped with an escape air supply.</li> </ul>
Skin absorption of a hazardous substance may result in a substantial possibility of: <ul style="list-style-type: none"> <li>• Immediate death.</li> <li>• Immediate serious illness or injury.</li> <li>• Reduced ability to escape.</li> </ul>	Protection equivalent to Level A including a totally encapsulating chemical protective (TECP) suit.

**AMENDATORY SECTION** (Amending WSR 06-10-067, filed 5/2/06, effective 9/1/06)

**WAC 296-826-20005 Personal protective equipment (PPE).**

**You must:**

- Provide the following PPE, at no cost to employees, at all stationary storage installations:
    - Two respirators in readily accessible locations as required by WAC 296-842, Respirators
    - One pair of protective gloves, boots, pants, a protective slicker, and a jacket made of:
      - Rubber;
- OR**

- Other material that can not be penetrated by ammonia.
  - Tight fitting vented goggles and one full face shield.
  - An easily accessible shower or fifty gallons of clean water in an open top container.
  - Equip tank motor vehicles with all of the following equipment for emergency purposes:
    - At least five gallons of water to flush liquid ammonia from skin or eyes.
    - Respiratory equipment suitable for anhydrous ammonia as required by chapter 296-842 WAC, Respirators
    - A pair of protective gloves made of neoprene rubber or other material that cannot be penetrated by ammonia.
    - Tight fitting goggles and a full face shield

**Note:** Additional safety equipment is recommended when more than one employee is present.

AMENDATORY SECTION (Amending WSR 04-02-053, filed 1/5/04, effective 5/1/04)

**WAC 296-843-19005 Provide and use appropriate PPE.**

**Reference:** See WAC 296-843-110, Evaluations and inspections, found in this chapter, for more information about how to identify hazards and complete your preliminary site evaluation.

**You must:**

(1) Make sure the PPE you provide and use for initial entry protects employees from known or suspected safety and health hazards identified during the preliminary site evaluation as follows:

If	Then
The need for atmosphere supplying respirators and chemical protective clothing has NOT been eliminated	Provide atmosphere supplying respirators and protective clothing
Employees use respiratory protection other than a positive-pressure SCBA for initial entry	Include an escape self-contained breathing apparatus (SCBA) with enough air to reach a safe location and always at least five minutes of air

- Use Table 2, Selecting PPE in Various Exposure Situations, to determine the level of PPE to provide during initial entry:

**You must:**

(2) Make sure the PPE you select provides employee protection based on:

- Actual and potential hazards identified during the site characterization and analysis (see WAC 296-843-110, Evaluations and inspections).
- Hazards likely to be encountered.
- Required tasks and their duration.
- Site requirements and limitations.
- Use Table 2 to identify the type of PPE that is required for various exposure situations.

**Table 2  
Selecting PPE in Various Exposure Situations**

If	Then
Changing site conditions indicate a change in employee exposure	Review and adjust the level of protection as appropriate

If	Then
	<p><b>Note:</b></p> <p>You may decrease the level of protection when information indicates this will not increase employee exposure to safety or health hazards</p>
<p>There is a substantial possibility that skin absorption or contact with a hazardous substance may:</p> <ul style="list-style-type: none"> <li>• Impair an employee's ability to escape</li> <li>• Cause immediate serious illness or injury</li> <li>• Is an IDLH or immediate death hazard</li> </ul>	<p>Use totally encapsulating chemical protective (TECP) suits and make sure they will protect employees from the hazards</p> <ul style="list-style-type: none"> <li>• Use, decontaminate, inspect, and remove TECP suits from service according to the manufacturer's recommendations</li> <li>• Perform any TECP integrity tests recommended by the manufacturer and make sure all TECP suits are capable of:                             <ul style="list-style-type: none"> <li>– Maintaining positive air pressure</li> <li>– Preventing inward test gas leakage of more than 0.5%</li> </ul> </li> </ul> <p><b>Note:</b></p> <p>Follow the manufacturer's recommended procedures for testing a TECP suit's ability to maintain positive air pressure and prevent inward gas leakage. Other established test protocols for these suits, for example, NFPA 1991 and ASTM F1052-97, may also be used</p>
<p>There is a substantial possibility that employee exposure to hazardous substances will either:</p> <ul style="list-style-type: none"> <li>• Immediately cause death, serious illness, or serious injury</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• Impair an employee's ability to escape</li> </ul>	<p>Use a positive-pressure SCBA or an airline respirator with an escape SCBA</p> <ul style="list-style-type: none"> <li>• Protect air supply from contamination and the entire respirator system from physical damage</li> </ul>



**Note:** If there is not a permissible exposure limit (PEL) or other published exposure level for a hazardous substance, you may use published studies and information as a guide for selecting appropriate PPE.

(3) PPE required by this standard is to be provided at no cost to the employees.

AMENDATORY SECTION (Amending WSR 05-01-173, filed 12/21/04, effective 5/1/05)

**WAC 296-848-40040 Personal protective equipment (PPE).**

**You must:**

• Provide at no cost to employees, make sure employees use, and maintain PPE as follows:

– Provide clean and dry protective clothing to employees who could experience eye or skin irritation from exposure to inorganic arsenic or who work in exposure control areas.

– Provide impervious protective clothing to employees exposed to arsenic trichloride.

**Note:**

- Arsenic trichloride is corrosive and can be rapidly absorbed through skin.
- Examples of protective clothing appropriate for inorganic arsenic exposures include:
  - Coveralls or similar full-body work clothing.
  - Gloves, and shoes or coverlets.
  - Face shields or vented goggles when necessary to prevent eye irritation.

**You must:**

– Make sure employees do not remove inorganic arsenic from PPE by blowing or shaking.

– Make sure protective clothing is removed:

■ In change rooms;

AND

■ At the end of the work shift.

– Make sure contaminated protective clothing that will be cleaned, laundered, or disposed of, is placed in a closed container located in the change room.

■ Make sure the container prevents the release of inorganic arsenic.

– Launder protective clothing:

■ At least weekly if employees work in areas where exposure monitoring results of inorganic arsenic are below an eight-hour time-weighted average concentration of 100 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ );

OR

■ Daily if employees work in areas where either exposure monitoring results of inorganic arsenic are above an eight-hour time-weighted average concentration of 100  $\mu\text{g}/\text{m}^3$  or when more frequent washing is needed to prevent skin irritation.

– Maintain the effectiveness of PPE by repairing or replacing it, as needed:

■ Dispose of protective clothing if it will not be repaired.

• Inform individuals who clean or launder protective clothing about the possible health effects associated with inorganic arsenic, including carcinogenic effects, by doing the following:

– Provide the information in writing;

AND

– Label containers of contaminated PPE with the following warning:

CAUTION:

Clothing contaminated with inorganic arsenic

Do not remove dust by blowing or shaking

Dispose of inorganic arsenic contaminated wash water as applicable local, state, or federal regulations require

**Reference:** To see additional Personal protective equipment requirements go to the Safety and health core rules, chapter 296-800 WAC, and find the section titled, PPE, WAC 296-800-160.