WSR 12-19-063
PROPOSED RULES
TREE FRUIT RESEARCH COMMISSION

[Filed September 14, 2012, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-16-044.

Title of Rule and Other Identifying Information: WAC 16-560-06001 Assessment rates.

Hearing Location(s): W. L. Hansen Building, 105 South 18th Street, Yakima, WA, on Wednesday, November 14, 4:00 p.m.; and the Washington Apple Commission, 2900 Euclid Avenue, Wenatchee, WA, on Thursday, November 15, 4:00 p.m.

Date of Intended Adoption: February 15, 2013.

Submit Written Comments to: Kathleen Schmidt, 1719 Springwater Avenue, Wenatchee, WA 98801, e-mail Kathy @treefruitresearch.com, fax (509) 665-8271, by November 21, 2012.

Assistance for Persons with Disabilities: Contact receptionist by November 7, 2012, TTY 1-800-833-6388 or (360) 902-1976.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Establishment of an additional assessment for special projects on all commercial cherry and stone fruit produced in the state, pursuant to RCW 15.26.150. Establishment of the assessment requires approval by a majority of the cherry and stone fruit producers voting and will be conducted by the Washington state department of agriculture.

Reasons Supporting Proposal: The assessment for special projects would provide funding for the establishment of contractual endowments with Washington State University to permanently expand and enhance the institution's capability to conduct research of specific interest to cherry and stone fruit producers in Washington state.

Statutory Authority for Adoption: Chapters 15.26, 34.05 RCW.

Statute Being Implemented: RCW 15.26.150.

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

Name of Proponent: Washington tree fruit research commission (WTFRC), governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: James McFerson, 1719 Springwater Avenue, Wenatchee, WA 98801, (509) 665-8271.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULE: The Washington state department of agriculture (WSDA) is proposing a special project assessment for the WTFRC pursuant to RCW 15.26.-150.

The proposed rule change will impose an assessment of $4 per ton on cherries and $1 per ton on soft fruits. Revenues from this assessment will be expended on the specific crop in proportion to the assessment collected for that specific crop.

NOTE: In 2011, a referendum of affected growers was conducted to approve a special project assessment increase affecting four groups of tree fruit producers: Apple, cherry, pear, and soft fruit. The referendum was passed by apple and pear producers; the referendum was defeated by cherry and soft fruit producers. This proposal for a special project assessment increase would only affect cherry and soft fruit producers and is substantially the same as the referendum passed by apple and pear producers; the main difference is clarification of the total contribution cherry and soft fruit producers would make to the fund created from the special project assessment. The surveys and outreach conducted for the small business economic impact statement (SBEIS) for the 2011 referendum are still relevant because only eighteen months has passed since collection of data and the affected industry is relatively stable. Since the completion of the 2011 SBEIS, the number of cherry producers has remained at approximately one thousand three hundred fifty and the number of soft fruit producers has remained at approximately two hundred. Therefore, this SBEIS adopts the 2011 SBEIS. Only those portions of this SBEIS that refer to cherry and soft fruit producers should be considered in connection with the rule proposal.

SBEIS: Chapter 19.85 RCW, the Regulatory Fairness Act, requires an analysis of the economic impact proposed rules will have on regulated small businesses. Preparation of an SBEIS is required when proposed rules will impose more than minor costs for compliance or have the potential of placing an economic impact on small businesses that is disproportionate to the impact on large businesses. "Minor cost" means a cost that is less than three-tenths of one percent of annual revenue or income, or one hundred dollars, whichever is greater, or one percent of annual payroll. "Small business" means any business entity that is owned and operated independently from all other businesses and has fifty or fewer employees.

INDUSTRY ANALYSIS: The WTFRC is empowered to:

- Promote and carry on research and administer specific industry service programs which will or may benefit the planting, production, harvesting, handling, processing or shipment of tree fruit of this state.
- Collect assessments on tree fruit in this state.
- Coordinate its research efforts with those of other state, federal, or private agencies doing similar research.

The WTFRC assesses approximately three thousand one hundred existing small businesses that fall under Sector 1113 (Agriculture, Forestry, Fishing and Hunting: Fruit and Tree Nut Farming) of the North American Industry Classification System. The WSDA has analyzed the proposed rule amendments and has determined that some costs are considered more than minor and will have an economic impact on regulated small businesses.

INVOLVEMENT OF SMALL BUSINESSES: The WTFRC has solicited input from small businesses over a six-month period to develop the proposed rule. This was accomplished via presentations and discussions with leadership of the two relevant Washington state commissions: The Washington

apple commission (WAC) and the Washington state fruit commission (WSFC). We also engaged four dues-paying member organizations representing tree fruit growers and shippers (Grower's Clearinghouse, Washington State Horticultural Association, Wenatchee Valley Traffic Association, and Yakima Valley Growers & Shippers Association). Approximately two hundred fifty visits have been conducted since January 2011 with individual business owners and industry organization leadership throughout the commercial production areas of the state. A work group of ten affected business owners representing both small and large businesses and different production regions provided specific guidance on the proposed rule as well as direction on the subsequent use of the additional assessment funds. Feedback obtained through this effort indicated nearly unanimous agreement that the proposed rule change was a fair and transparent approach and would not have a significant disproportionate impact on small businesses.

In order to provide a more quantitative assessment, the WTFRC developed and utilized a cover letter and survey instrument (see Appendices 1 and 2) to solicit further input and examine the impact of the proposed rule on small businesses. Four separate surveys were conducted for each of the four affected tree fruit producers: Apple, cherry, pear, and soft fruit.

The survey was mailed to a random sample of affected producers, including five hundred apple producers, and a combined total of one thousand five hundred pear, cherry, and soft fruit producers. The sample was taken from assessment records provided by the WAC and the WSFC. A mail-in survey with prestamped return envelopes was conducted from April 1 to May 7, 2011. A complementary on-line survey was conducted on the WTFRC web site (www.treefruitresearch.com) during the same time period as above, and a survey was e-mailed to those on the WHICH commission committee lists. A total of one hundred sixty-one surveys were returned for a response rate of 8.4 percent. We also received seven responses on-line or via e-mail. The total number of responses by group was: Apple (74); cherry (59); pear (29); and soft fruit (5).

Results from the survey were similar to those obtained through direct interaction with business owners in the rule development process. We therefore conclude the proposed rule will not cause a significantly disproportionate impact on small businesses. More detailed analysis is provided in subsequent sections.

COST OF COMPLIANCE: The rule change will not require any additional costs for equipment, supplies, labor, professional services, and administration for either a small or large business. Assessments are currently being collected through the WAC and WSFC and the additional assessments will be remitted as part of an existing process. No new requirements or professional services relative to recordkeeping or filing will be incurred by a small or large business to comply with the proposed rule.

Analysis of Cost of Compliance: The surveys specifically requested feedback on potential loss of sales, loss of revenue, and additional costs. Across the four groups of affected business owners, results indicate most respondents do not feel the proposed rule will result in a significant loss of sales, loss of revenue, or additional costs per employee. The responses were similar for both large and small business (see Appendix 3). The cost per $100 sales for the proposed rule is the same whether a business is large or small and since the rule will require no additional administrative, reporting, or record-keeping tasks, the cost of compliance will be identical for both large and small business. It should be noted that a sunset clause is built into the proposed rule change. The additional assessment will no longer be collected when the total assessment goal of $32 million is met, or eight crop years have passed, whichever occurs first.

Analysis of Disproportionate Economic Impact: While costs associated with proposed rules are more than minor as defined by the WSDA, there is no indication costs to small businesses are any different than those to ten percent of the largest businesses in the regulated industry. Thus, there is no action suggested to mitigate disproportionate cost to address such issues as substantive regulatory requirements, excessive recordkeeping or reporting, frequency of inspection, compliance timetables, or fines.

Mitigating Disproportionate Costs (include this section only if costs are disproportionate): None suggested.

JOBS CREATED OR LOST: We conclude the rule will have no impact on jobs created or lost.

CONCLUSION: To comply with chapter 19.85 RCW, the Regulatory Fairness Act, the WTFRC has analyzed the economic impact of the proposed rules on small businesses and has concluded there is no disproportionate impact. Thus, there is no need to mitigate costs of compliance with the proposed rule.

Please contact James R. McFerson if you have any questions at (509) 665-8271 x1 or mcferson@treefruitresearch.com.

Appendix 1: Cover Letter

Washington Tree Fruit Research Commission
2011 Special Project Assessment

Dear Apple Grower:

You have received this one-page survey as part of a request by the Washington Tree Fruit Research Commission (WTFRC) to conduct a referendum for a special project assessment. If you are NOT a Washington tree fruit producer, please ignore this survey.

The WTFRC is requesting a special project assessment pursuant to RCW 15.26.150 at the rate of $4 per ton on cherries and $1 per ton on all other tree fruit. This special project assessment will be expended on a specific crop in proportion to the assessment collected for that crop. That is, apple revenues will go to apple projects, and similarly for pear, cherry and soft fruit.

The assessment will begin in the 2011 crop year and be in effect until the total collection for all crops reaches $32,000,000, but in no case will it be in effect for more than eight crop years. If $32,000,000 is collected in less than eight crop years, this special project assessment will expire at the end of that crop year and no special project assessment will be collected subsequently.

This special project assessment would be collected in the same way as the current regular WTFRC assessment, at the point of first handling by the warehouse or processor. The current assessment is $4 per ton on cherries and $1 per ton on all other tree fruit, which is approximately equivalent to 6 cents/30 lb lug for cherry or 2 cents/40 lb box for apple, pear, and soft fruit.

All revenue generated in this assessment will be invested in endowments supporting tree fruit research as part of the Washington State University Tree Fruit Capital Campaign and be closely monitored by the WTFRC.

We are required by the state of Washington to conduct this survey to help determine how the special project assessment would have an economic impact on small businesses (defined by the state as less than 50 employees). Your responses are anonymous and confidential and will not be used for any purpose other than complying with this state requirement. Completing this survey does not indicate your support nor opposition to the upcoming referendum.

You may return the survey by surface mail in the enclosed envelope, or complete it online. Go to our home page at www.treefruitresearch.com and follow the instructions. Please complete the survey only once per crop, even if you receive multiple notifications, and return it by 30 April 2011.

Thank you for taking the time to help us conduct this survey. It is the shortest one you will ever get! If you have any questions or concerns, please contact me.

Jim McFerson, Manager
WTFRC
1719 Springwater St
Wenatchee, WA 98801
Ph: 509-662-7510
Mob: 509-669-3900
mcferson@treefruitresearch.com

Appendix 2: Survey

Small Business Economic Impact Survey: 2011
Washington Tree Fruit Research Commission
Special Project Assessment

1. How many people does your operation employ on a full-time, year round basis?

O 0 - 50
O More than 50

2. Please check the selection that best describes the total acres of tree fruit production (owned and leased) in your operation.

O 1 - 49 A
O 50 - 199 A
O 200 - 499 A
O More than 500 A

3. Over the past three years, what do you consider your average annual yield for apples: _____ bins/A

4. If the special project assessment described above were implemented, what do you think would be the impact on your **per acre cost of production**?

Examples:

Apple @50 bin (900 lb bin)/A= 45,000lbs= 22.5T= $22.50/A assessment

O Negligible
O Increase by less than .5 percent
O Increase by 1 - 2 percent
O Increase by more than 2 percent
O Decrease

5. If the assessment described above were implemented, what do you think would be the impact on your **net farm income** (gross revenues - total costs)?

O Negligible
O Decrease by less than .5 percent
O Decrease by 1 - 2 percent
O Decrease by more than 2 percent
O Increase

6. If the special project assessment described above were implemented, estimate the additional annual cost incurred by your business: $_____ /employee

Appendix 3: Summary of Survey Responses

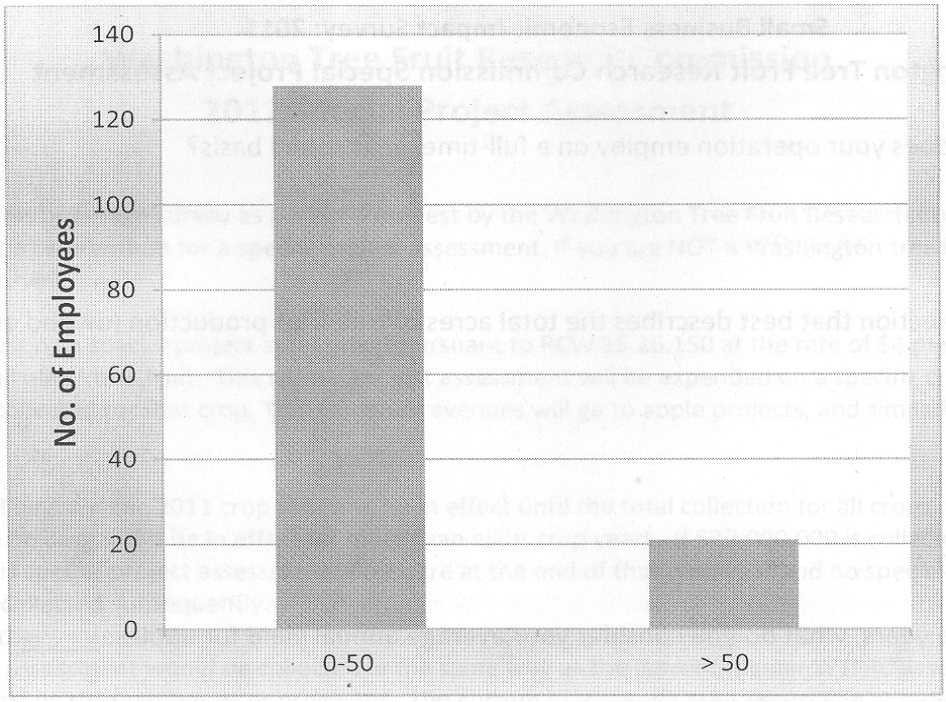


Fig 1. Relative number of respondents classified as a small (0-50 acres) or large (>50 acres) business.

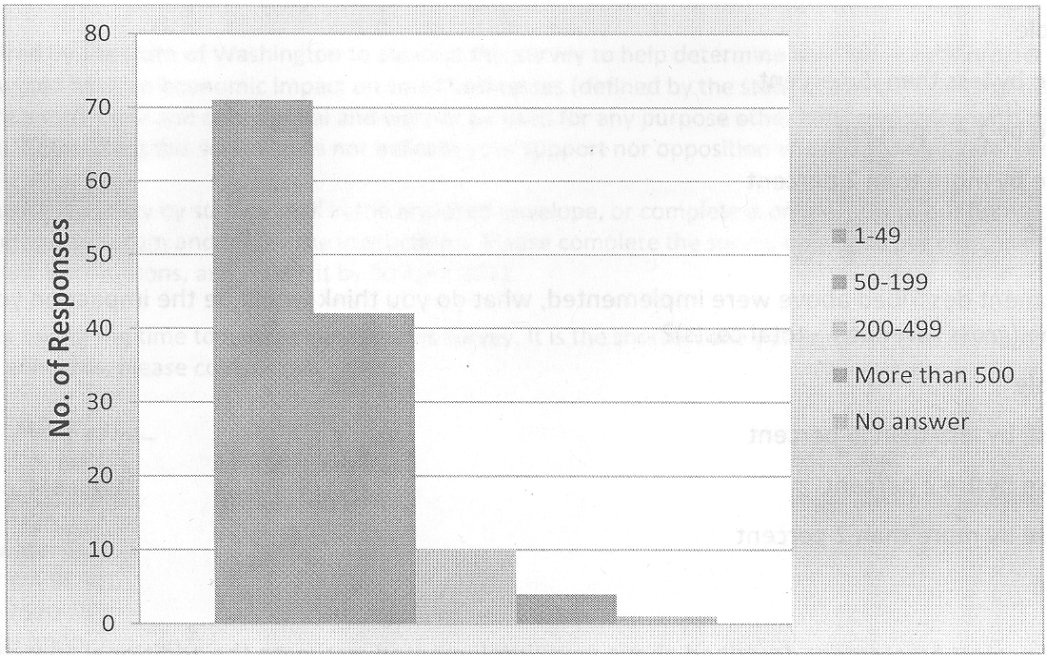


Fig 2. Number of respondents by size of operation across crops.

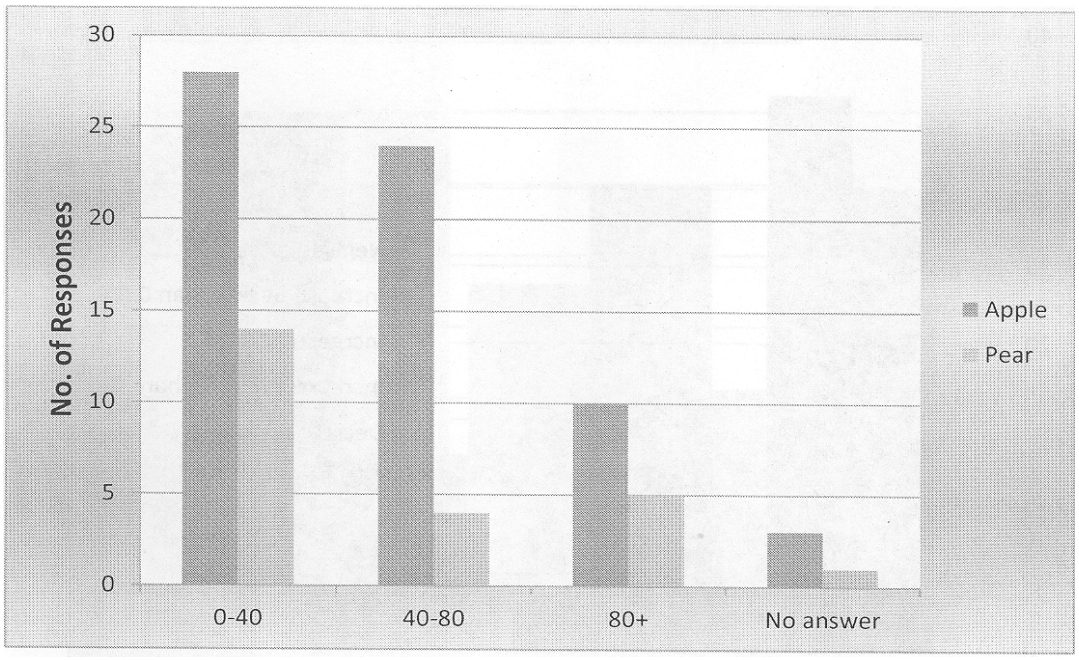


Fig 3. Number of small business respondents by average annual yield for apple and pear.

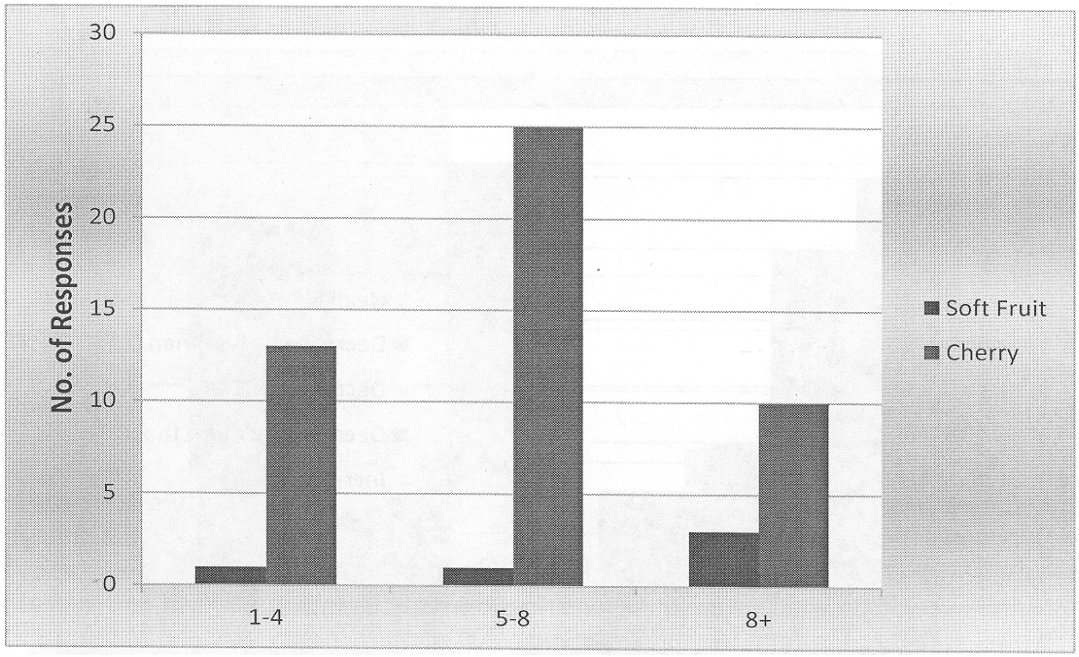


Fig 4. Number of small business respondents by average annual yield soft fruit and cherry.

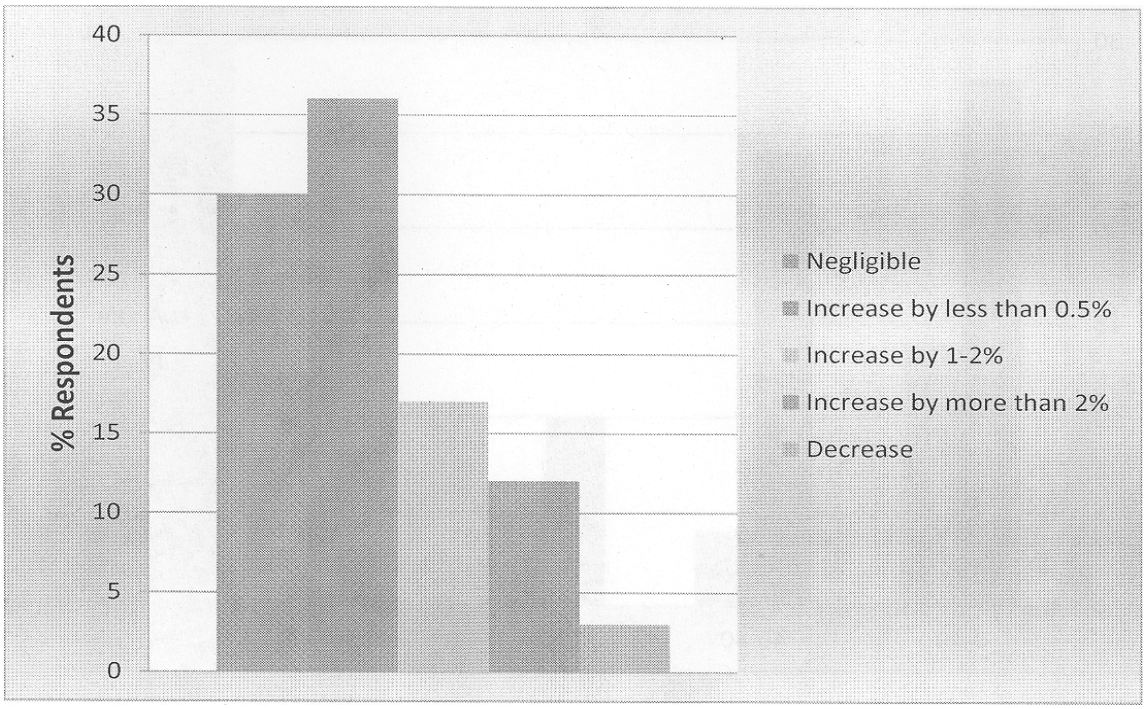


Fig 5. Percentage of small business respondents indicating the effect of the proposed assessment on per acre cost of production across crops.

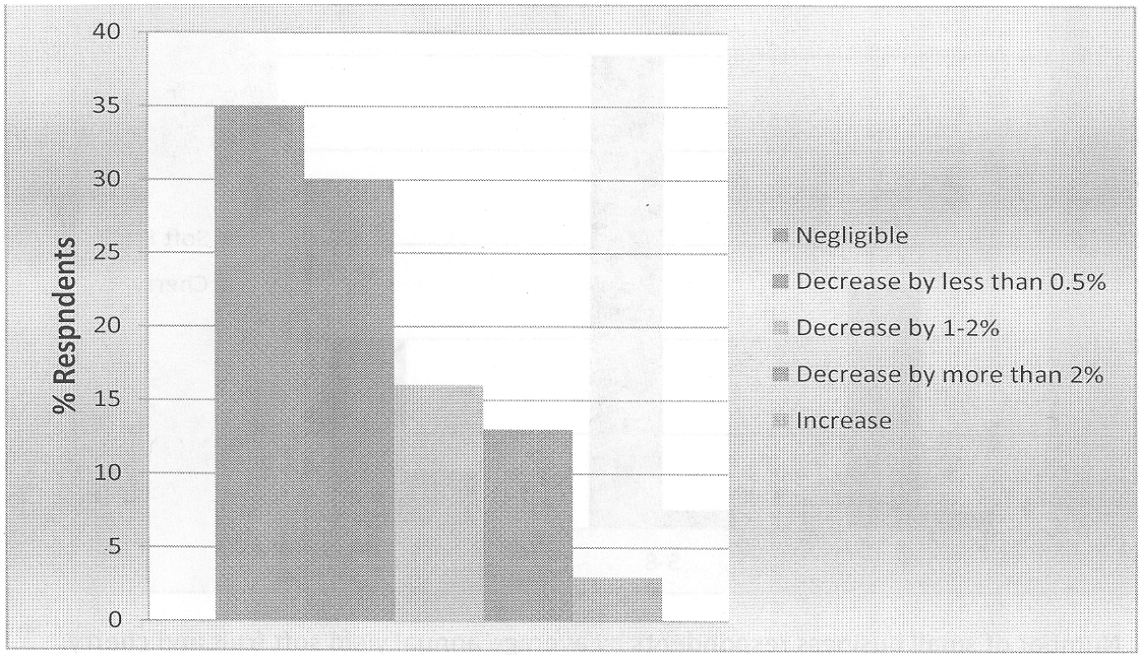


Fig 6. Percentage of small business respondents indicating the effect of the proposed assessment on net farm income across crops.

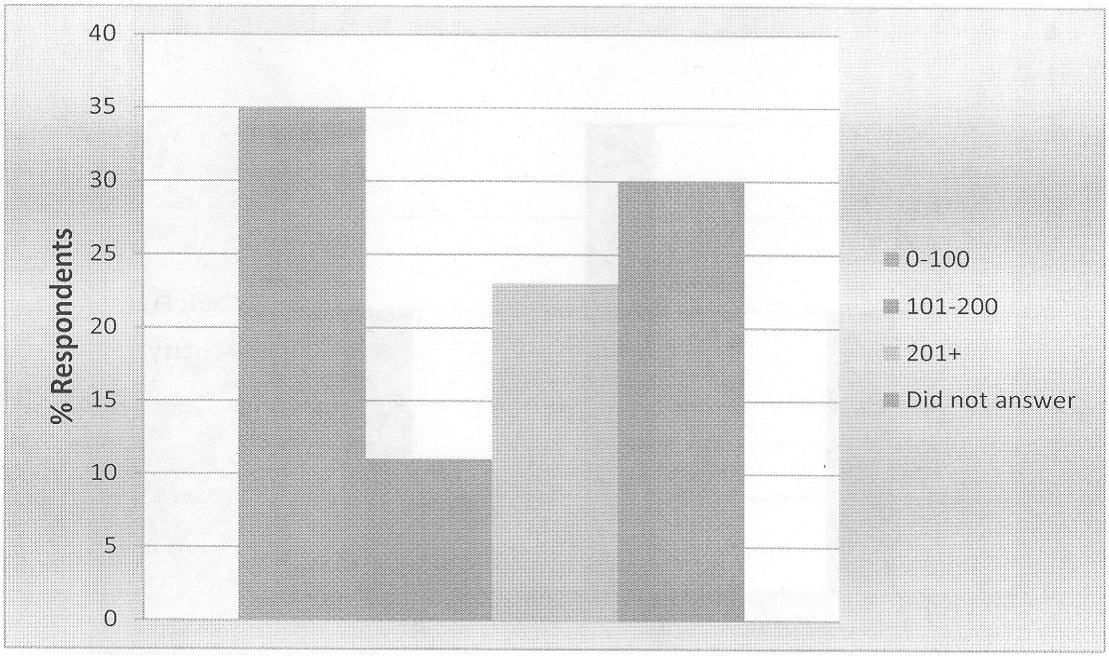


Fig 7. Percentage of small business respondents indicating the effect of the proposed assessment on additional annual cost ($/employee) across crops.

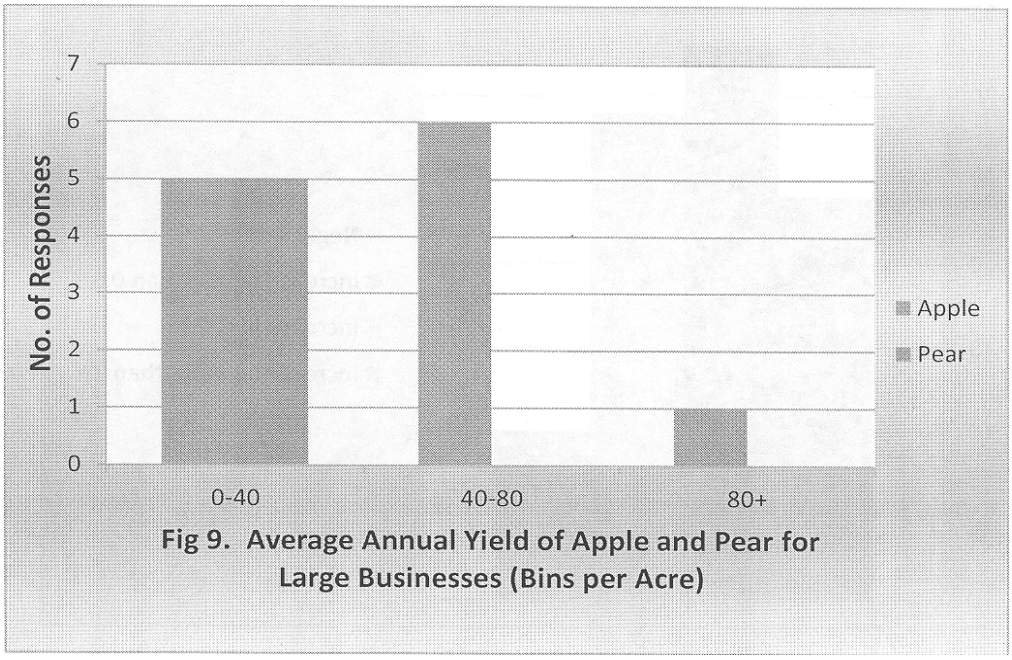


Fig 8. Number of large business respondents by average annual yield for apple and pear.

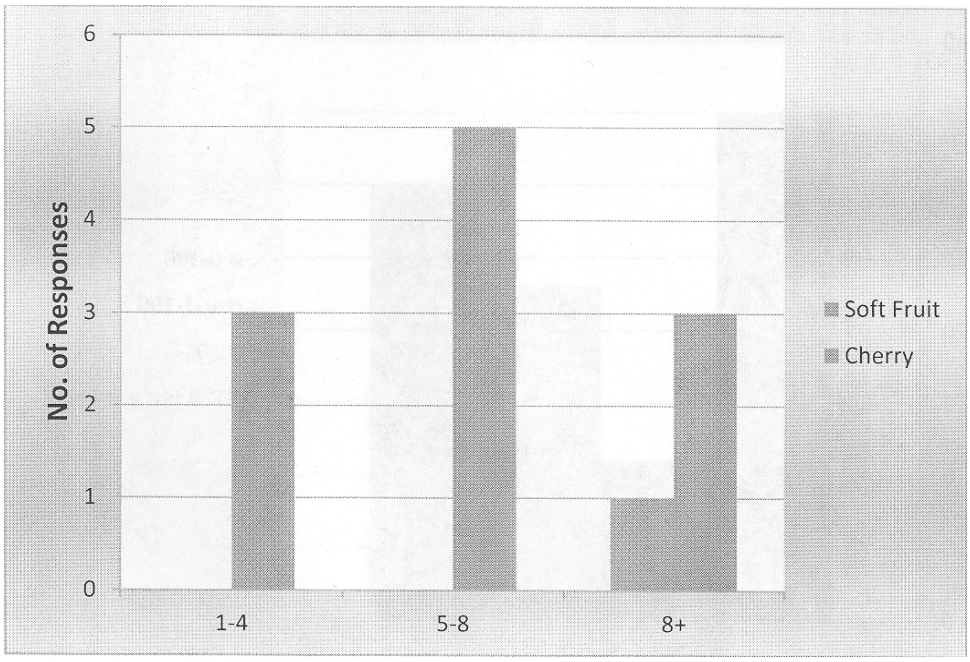


Fig 9. Number of large business respondents by average annual yield soft fruit and cherry.

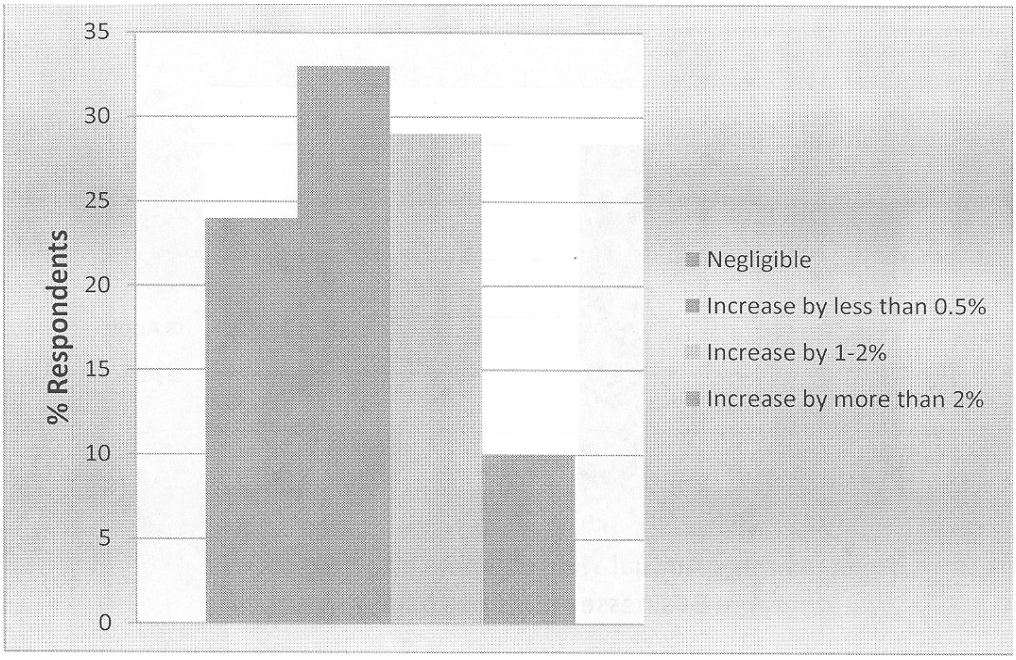


Fig 10. Percentage of large business respondents indicating the effect of the proposed assessment on per acre cost of production across crops.

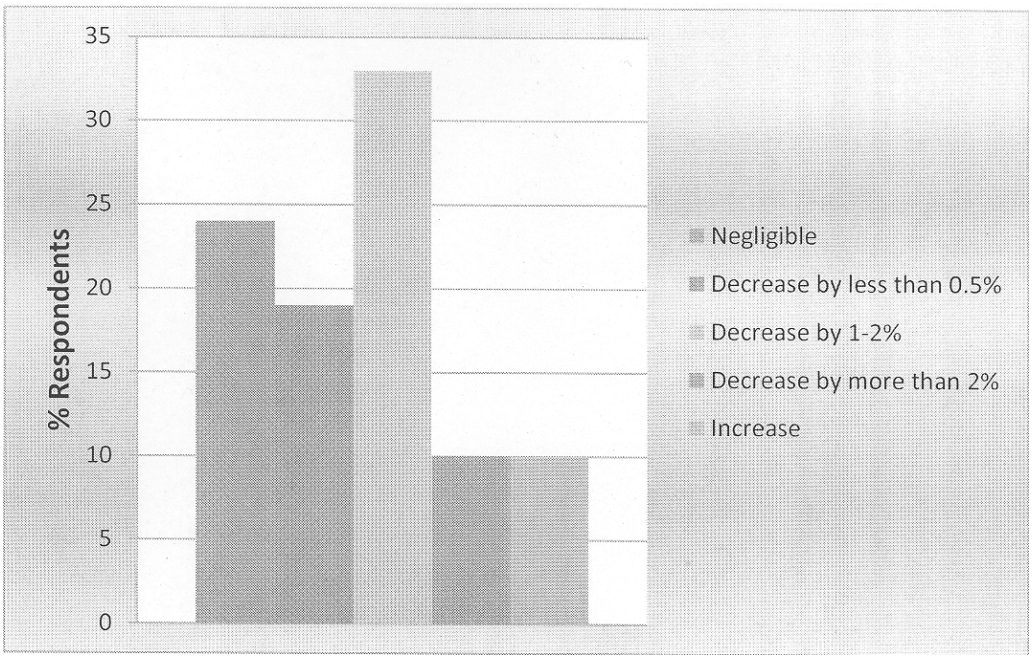


Fig 11. Percentage of large business respondents indicating the effect of the proposed assessment on net farm income across crops.

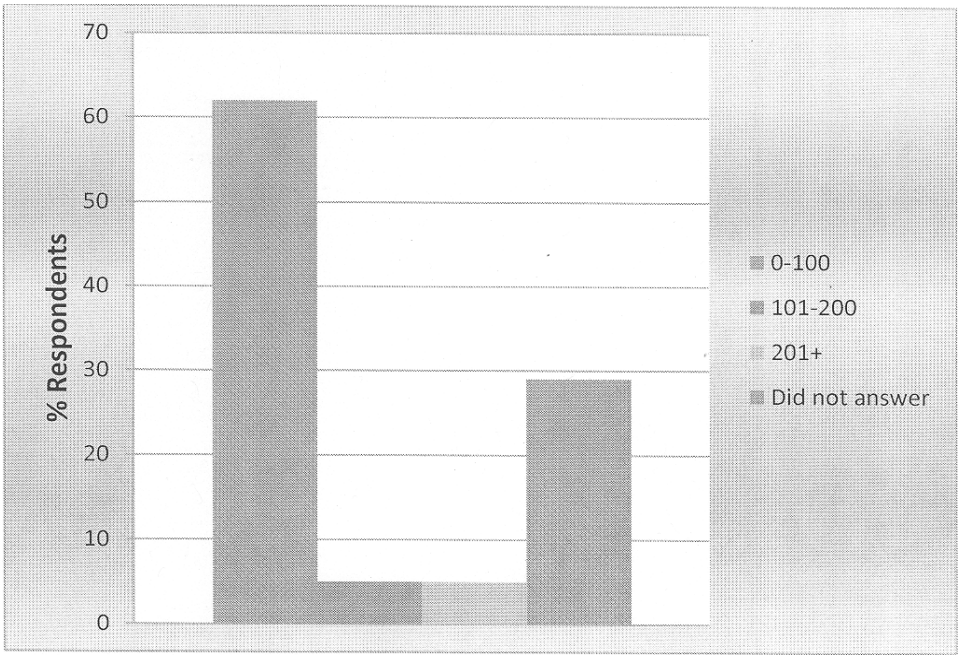


Fig 12. Percentage of large business respondents indicating the effect of the proposed assessment on additional annual cost ($/employee) across crops.

A copy of the statement may be obtained by contacting Kathy Schmidt, 1719 Springwater Avenue, Wenatchee, WA 98801, phone (509) 665-8271, fax (509) 663-5827, e-mail kathy@treefruitresearch.com.

A cost-benefit analysis is not required under RCW 34.05.328. The department of agriculture and WTFRC are not named agencies in RCW 34.05.328 (5)(a)(i).

September 14, 2012
James R. McFerson
Manager

AMENDATORY SECTION (Amending WSR 11-21-011, filed 10/7/11, effective 11/7/11)

WAC 16-560-06001 Assessment rates. (1) There is hereby levied on all commercial tree fruit produced in this state or held out as being produced in this state for fresh or processing use, an assessment of one dollar per ton on all such tree fruit: Provided, That such assessment for cherries shall be four dollars per ton.

(2) There is hereby established pursuant to RCW 15.26.155 an additional assessment for an industry services fund for programs related to sanitation, planting, production, harvesting, handling, processing and shipping. The assessment shall be set annually by the commission, upon approval of two-thirds of the voting members of the commission, to create and maintain this fund at or near one hundred thousand dollars. If this fund should inadvertently exceed one hundred thousand dollars due to larger crops than estimated or the addition of interest earned, the excess shall be credited to the following year's fund.

In consideration of maintaining this industry services fund, the commission shall annually consult with the affected industry and grower organizations.

(3) There is hereby established on all commercial tree fruit produced in this state or held out as being produced in the state for fresh or processing use, an additional assessment pursuant to RCW 15.26.150 of four dollars per ton on cherries and one dollar per ton on all other such tree fruit as approved by referendum vote of affected producers, the results of which shall be retained on file in the board's administrative office. This additional assessment shall be expended on a specific crop in proportion to the assessment collected for the specific crop. The additional assessment shall be imposed beginning in the 2012 crop year and be in effect until the total collection for all crops reaches thirty-two million dollars but in no case will be in effect for more than eight crop years. If thirty-two million dollars in additional assessment is collected in less than eight crop years, this additional assessment will expire at the end of the crop year and no further additional assessment will be collected in the subsequent crop years.

(4) The referendum for additional assessment under subsection (3) of this section having failed with regard to cherries and soft fruit, there is hereby established on all commercial soft fruit and cherries produced in this state or held out as being produced in the state for fresh or processing use, an additional assessment pursuant to RCW 15.26.150 to add to the fund established under subsection (3) of this section. This additional assessment shall be expended on a specific crop in proportion to the assessment collected for the specific crop. The additional assessment for soft fruit and cherries shall be one dollar per ton on soft fruit and four dollars per ton on cherries as approved by referendum vote of affected producers. If approved, the cherry and soft fruit assessment shall begin in the 2013 crop year. The cherry assessment shall continue in effect until the 2021 crop year or until the total collection for cherries reaches five million dollars or until the total collection for all crops reaches its maximum amount as defined under subsection (3) of this section, whichever comes first. The soft fruit assessment shall continue in effect until the 2021 crop year or until the total collection for soft fruit reaches two hundred seventy-five thousand dollars or until the total collection for all crops reaches its maximum amount under subsection (3) of this section, whichever comes first. The board shall retain the results of the referendum on file in the board's administrative office.

WSR 12-20-012
PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed September 24, 2012, 9:51 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-15-009.

Title of Rule and Other Identifying Information: Chapter 392-170 WAC, Special service program—Highly capable students.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Old Capitol Building, Brouillet Conference, 600 South Washington, Olympia, WA 98504-7200, on November 28, 2012, at 1:00 p.m.

Date of Intended Adoption: November 28, 2012.

Submit Written Comments to: Gayle Pauley, Director, OSPI, Special Programs and Federal Accountability, P.O. Box 47200, Olympia, WA 98504-7200, e-mail gayle.pauley @k12.wa.us, fax (360) 586-3305, by November 19, 2012.

Assistance for Persons with Disabilities: Contact Wanda Griffin by November 19, 2012, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Chapter 392-170 WAC has been revised to reflect the state legislation changes to chapter 28A.185 RCW. Sections were changed to reflect that highly capable programs and services are for the education of K-12 students through a state appropriation as part of basic education. Technical corrections and formatting changes have been made to clarify definitions and to revise sections to comply with chapter 28A.185 RCW, and to repeal sections that are no longer applicable under chapter 28A.185 RCW.

Changes were made to reflect that highly capable programs and services are for highly capable students in kindergarten through twelfth grade, and that districts complete an annual plan for the district's highly capable to receive the funding appropriation. Sections were changed to clarify school district annual plan content, identification procedures, parent permission, and end-of-year report content. A new section was added which requires an appeal process.

Statutory Authority for Adoption: Chapter 28A.185 RCW, Highly capable students.

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

Name of Proponent: [OSPI], governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Gayle Pauley, OSPI, special programs and federal accountability, (360) 725-6100; and Enforcement: Bob Harmon, OSPI, special programs and federal accountability, (360) 725-6170.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Was not applicable.

A cost-benefit analysis is not required under RCW 34.05.328. Was not applicable.

September 24, 2012
Randy Dorn
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 18, filed 7/19/90, effective 8/19/90)

WAC 392-170-005 Authority. The authority for this chapter is ((~~chapter 28A.185~~)) RCW((~~—~~)) 28A.150.290, 28A.185.030, and 28A.185.050, which authorize((~~s~~)) the superintendent of public instruction to adopt rules and regulations for the administration of a program for highly capable students in kindergarten through twelfth grade, including the nomination, assessment, and selection of such students.

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-010 Purpose. The purpose of this chapter is to establish policies and procedures for administration of ((~~a~~)) programs and services for the education of K-12 students who are highly capable.

NEW SECTION

WAC 392-170-012 Funds. For highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. School districts may access basic education funds and highly capable categorical funds to provide appropriate highly capable student programs and services.

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-020 District ((~~application~~)) plans for the district's highly capable program. Each district ((~~that seeks an allocation of state funds for a program for highly capable students~~)) shall submit an annual ((~~application~~)) plan for the district's highly capable program on forms provided by the superintendent of public instruction for approval.

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-025 Board approval. The district's ((~~annual application~~)) plan for students who are highly capable shall be annually approved by formal action of the district's board of directors.

AMENDATORY SECTION (Amending WSR 06-18-105, filed 9/6/06, effective 10/7/06)

WAC 392-170-030 Substance of annual school district ((~~application~~)) plan. The school district's annual ((~~application~~)) plan shall contain the following:

(1) A report of the number of K-12 students ((~~to be served~~)) who are highly capable that the district expects to serve by grade level;

(2) ((~~Brief~~)) A description of the district's plan to identify students;

(3) ((~~Program services~~)) A description of the highly capable program goals;

(4) A description of the services the highly capable program will offer;

(5) A description of the instructional program ((~~description~~)) the highly capable program will provide;

(((~~(5)~~))) (6) A description of ongoing professional development for educators of students who are highly capable and general education staff;

(((~~(6)~~))) (7) A description of how the highly capable program ((~~evaluation and~~)) will be evaluated that includes information on how the district's highly capable program goals and student achievement outcomes will be measured;

(8) A fiscal report; and

(((~~(7)~~))) (9) Assurances signed by the school district's authorized representative that the district ((~~shall~~)) will comply with all applicable statutes and regulations.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-035 Definition—((~~Highly capable~~)) Students who are highly capable. ((~~As used in this chapter, the term highly capable student shall mean a student who has been assessed to have superior intellectual ability as demonstrated by one or more of the multiple criteria specified in WAC 392-170-040.~~

~~These students exhibit high capability in intellectual and/or creative areas, possess an unusual leadership capacity, or excel in specific academic fields, thereby requiring services beyond the basic programs provided by schools. Outstanding abilities are present in students from all cultural groups, across all economic strata, and in all areas of human endeavor.~~)) As used in this chapter, the term students who are highly capable means that students who are highly capable perform or show potential for performing at significantly advanced academic levels when compared with others of their age, experiences, or environments. Outstanding abilities are seen within students' general intellectual aptitudes, specific academic abilities, and/or creative productivities within a specific domain. These students are present not only

in the general populace, but are present within all protected classes according to chapters 28A.640 and 28A.642 RCW.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-036 Definition—((~~Unique needs~~)) Learning characteristics. As used in this chapter, the term ((~~unique needs shall~~)) learning characteristics means that ((~~identified~~)) students who are highly capable ((~~students generally~~)) may possess, but are not limited to, these learning characteristics:

(1) Capacity to learn with unusual depth of understanding, to retain what has been learned, and to transfer learning to new situations;

(2) Capacity and willingness to deal with increasing levels of abstraction and complexity earlier than their chronological peers;

(3) Creative ability to make unusual connections among ideas and concepts;

(4) Ability to learn ((~~very~~)) quickly in their area(s) of intellectual strength; and

(5) Capacity for intense concentration and/or focus.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-038 Definition—Special teacher. As used in this chapter, a special teacher is a teacher ((~~with experience and/or training in the education of highly capable students~~)) who has training, experience, advanced skills, and knowledge in the education of highly capable students. Areas of ((~~training~~)) competence should include knowledge of the following: Identification procedures, academic, social and emotional characteristics, program design and delivery, instructional practices, student assessment, and program evaluation.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-042 Annual notification. Annual public notification of parents and students ((~~must~~)) shall be made before any major identification activity. The notice ((~~must~~)) shall be published or announced in ((~~school publications, newspapers, and/or other media~~)) multiple ways in appropriate languages to each community in school and district publications or other media, with circulation adequate to notify parents and students throughout the district.

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-045 Nomination process for highly capable students. Each school district shall adopt procedures for the nomination of students to participate in programs for highly capable students. Such procedures shall permit ((~~nominations from any source, including~~)) referrals based on data or evidence from teachers, other staff, parents, students, and members of the community.

A district's nomination procedure for students who are highly capable may include screening procedures to eliminate students who, based on clear, current evidence, do not qualify for eligibility under WAC 392-170-055.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-047 Parental/legal guardian permission. Parental permission ((~~must~~)) shall be obtained in writing before:

(1) Conducting assessment(s) to determine eligibility for participation in programs for highly capable students((~~.~~));

(2) ((~~Providing initial~~)) Placement in the district's highly capable program before any special services and programs ((~~to~~)) are started for an identified highly capable student((~~.~~));

Parental permission notice shall include:

(a) A full explanation of the procedures for identification ((~~and program options.~~)) of a student for entrance into the highly capable program;

(b) An explanation of the ((~~appeal~~)) appeal's process;

(c) An explanation of the procedures to exit a student from the program; and

(d) Information on the district's program and the options that will be available to identified students.

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-055 Assessment process for selection as highly capable student. (1) Students nominated for selection as a highly capable student((~~, unless eliminated through screening as provided in WAC 392-170-050,~~)) shall be assessed by qualified district personnel ((~~using a minimum of one measure for each of the multiple criteria in WAC 392-170-040. In order to be considered for final selection as among the most highly capable by the multidisciplinary selection committee following assessment, there shall exist evidence of one or more of the following characteristics:~~

~~(1) Evidence that the student scores in the top ten percent in cognitive ability as demonstrated by a standardized ability test;~~

~~(2) Evidence that the student scores in the top five percent in one or more specific academic achievement area; and/or~~

~~(3) Evidence that the student demonstrates behavioral characteristics for exceptional creativity~~)):

(2) Districts shall use multiple objective criteria for identification of students who are highly capable. There is no single prescribed method for identification of highly capable students; and

(3) Districts shall have a clearly defined and written assessment process.

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-060 Nondiscrimination in the use of tests. All tests and other evaluation materials used in the assessment shall have been validated for the specific purpose for which they are used and shall accurately reflect whatever

factors the tests purport to measure. If properly validated tests are not available, the professional judgment of the qualified district personnel shall determine eligibility of the student based upon ((~~other~~)) evidence of cognitive ability and/or academic achievement. This professional judgment shall be documented in writing.

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-070 Multidisciplinary selection committee. The multidisciplinary selection committee for the final selection of the most highly capable students for participation in the district's program for highly capable students shall consist of the following professionals:

(1) A ((~~classroom~~)) special teacher ((~~with training and experience in teaching highly capable students~~)): Provided, that if ((~~such~~)) a ((~~classroom~~)) special teacher is not available, a classroom teacher shall be appointed;

(2) A psychologist or other qualified practitioner with the training to interpret cognitive and achievement test results;

(3) A ((~~district administrator~~)) certificated coordinator/administrator with responsibility for the supervision of the district's program for highly capable students; and

(4) Such additional professionals, if any, the district deems desirable.

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-075 Selection of most highly capable. Each school district's board of directors shall adopt policies and procedures for the selection of the most highly capable students by the multidisciplinary selection committee. Such policies and selection procedures:

(1) Shall ((~~be consistent with the state board of education's prohibition against unlawful discrimination as defined in WAC 180-40-215(1)~~)) not violate federal and state civil rights laws, including, without limitation, chapters 28A.640 and 28A.642 RCW;

(2) Shall be based on professional judgment as to which students will benefit the most from inclusion in the district's program((~~, including such additional factors as the student's desire to be included in the program options provided by the district~~)); and

(3) Shall be based on a selection system that determines which students are the most highly capable ((~~and which considers the multiple criteria in WAC 392-170-040, the assessment criteria in~~)) as defined under WAC 392-170-055, and other data collected in the assessment process((~~: Provided, That for students whose cognitive ability score or achievement test results are not available for inclusion in the assessment because of the provision of WAC 392-170-060, the final selection ranking system shall provide an equal opportunity for such students to be included as most highly capable in spite of the fact that one or more of these scores were not available for inclusion in the assessment of such students~~)).

NEW SECTION

WAC 392-170-076 Process for appeal. Each district shall adopt a procedure for appealing the multidisciplinary selection committee's decision and disseminate this procedure to the public.

AMENDATORY SECTION (Amending WSR 06-18-105, filed 9/6/06, effective 10/7/06)

WAC 392-170-078 Program services. ((~~Education program plans for each identified highly capable student or plans for a group of students with similar academic abilities shall be developed based on the results of the assessed academic need of that student or group of students.~~)) Districts shall make a variety of appropriate program services ((~~shall be made~~)) available to students who participate in the district's program for highly capable students. Once services are started, a continuum of services shall be provided ((~~and may include kindergarten through twelfth grade~~)) to the student from K-12. Districts shall periodically review services for each student to ensure that the services are appropriate.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-080 Educational program for highly capable students. Each student identified as a highly capable student shall be provided educational opportunities which take into account such ((~~students'~~)) student's unique needs and capabilities. ((~~Such program shall recognize the limits of the resources provided by the state and the program options available to the district, including programs in adjoining districts and public institutions of higher education.~~)) Districts shall keep on file a description of the educational programs and services provided for ((~~each~~)) students selected.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-090 End of year report. Districts shall submit to the superintendent of public instruction at the close of each fiscal year an end of the year report on forms provided by the superintendent of public instruction which includes:

(1) Number of students served by grade level((~~, the ethnicity and gender of such students, and program(s) provided for these students~~)) (K-12);

(2) Student demographic information;

(3) Data to determine if students who are highly capable met the goals set and if the services provided met the academic needs of these students;

(4) Number and content of professional development activities provided for special teachers and general education staff;

(5) Program evaluation data and, if needed, program changes that will be made based upon this information; and

(6) Final fiscal report that reports on activities and staff funded by this program.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-170-015	Local option.
WAC 392-170-037	Definition—Program options.
WAC 392-170-040	Multiple criteria for determination of superior intellectual ability—Definitions.
WAC 392-170-050	Screening of nominees.
WAC 392-170-065	Nondiscrimination in the review of testing results.
WAC 392-170-085	Notification of parents.

WSR 12-20-015
PROPOSED RULES
PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed September 24, 2012, 10:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-19-118.

Title of Rule and Other Identifying Information: Amends WAC 181-87-050 to establish misrepresentation of teacher assessments for certification constitutes unprofessional practice and is subject to investigation by the office of professional practice.

Hearing Location(s): ESD 112, Klickitat Room, 2500 N.E. 65th Avenue, Vancouver, WA 98661, on November 8, 2012, at 8:30 a.m.

Date of Intended Adoption: November 8, 2012.

Submit Written Comments to: David Brenna, Senior Policy Analyst, P.O. Box 47236, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by October 31, 2012.

Assistance for Persons with Disabilities: Contact David Brenna by October 31, 2012, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The legislature established teacher assessments by statute. The rule for unprofessional conduct don [does] not include misrepresentation of teacher assessments as unprofessional conduct.

Reasons Supporting Proposal: Response to legislation.

Statutory Authority for Adoption: RCW 28A.410.210.

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

Name of Proponent: Professional educators [educator] standards board, governmental.

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, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

September 24, 2012
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 06-02-051, filed 12/29/05, effective 1/1/06)

WAC 181-87-050 Misrepresentation or falsification in the course of professional practice. Any falsification or deliberate misrepresentation, including omission, of a material fact by an education practitioner concerning any of the following is an act of unprofessional conduct:

(1) Statement of professional qualifications.

(2) Application or recommendation for professional employment, promotion, certification, or an endorsement.

(3) Application or recommendation for college or university admission, scholarship, grant, academic award, or similar benefit.

(4) Representation of completion of inservice or continuing education credit hours.

(5) Evaluations or grading of students and/or personnel.

(6) Financial or program compliance reports submitted to state, federal, or other governmental agencies.

(7) Information submitted in the course of an official inquiry by the superintendent of public instruction related to the following:

(a) Good moral character or personal fitness.

(b) Acts of unprofessional conduct.

(8) Information submitted in the course of an investigation by a law enforcement agency or by child protective services regarding school related criminal activity.

(9) Assessments leading to certification or professional certification.

(10) An education practitioner who aids, encourages, and/or abets another educator in any falsification or deliberate misrepresentation, including omission, of a material fact in conjunction with the acts listed above commits misrepresentation in the course of professional practice.

WSR 12-20-016
PROPOSED RULES
SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed September 24, 2012, 10:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-14-003.

Title of Rule and Other Identifying Information: WAC 392-169-060 Running start enrollment—Exception from tuition and fee and 392-169-115 Running start finance—Limitations on enrollment counts.

Hearing Location(s): Office of the Superintendent of Public Instruction (OSPI), Old Capitol Building, Wanamaker Conference Room, 600 South Washington, Olympia, WA, on November 7, 2012, at 10:00 a.m.

Date of Intended Adoption: November 7, 2012.

Submit Written Comments to: Becky McLean, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail becky.mclean@k12.wa.us, fax (360) 664-3631, by November 6, 2012.

Assistance for Persons with Disabilities: Contact Wanda Griffin by November 1, 20121 [2012], TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 392-169-060 and 392-169-115 require updating to address the 1.20 FTE limitation for running start and the provision for colleges to charge tuition when the 1.20 FTE is exceeded.

Reasons Supporting Proposal: After the passage of the 2011-2013 operating budget which limited the enrollment available to running start students, these WACs require modification to address this limitation.

These WAC changes were adopted through the CR-103E emergency rule process which was filed on June 21, 2012.

Statutory Authority for Adoption: RCW 28A.150.305.

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

Name of Proponent: OSPI, governmental.

Name of Agency Personnel Responsible for Drafting: Becky McLean, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6306; Implementation: T. J. Kelly, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6181; and Enforcement: JoLynn Berge, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6301.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

A cost-benefit analysis is not required under RCW 34.05.328.

September 24, 2012
Randy Dorn
State Superintendent

AMENDATORY SECTION (Amending Order 95-02, filed 4/14/95, effective 5/15/95)

WAC 392-169-060 Enrollment—Exception from tuition and fees. A running start student shall not be required by an institution of higher education to pay any tuition or other fee as a condition to the student's full participation in running start college or university course work and related activities, or as a condition to the award of credit therefor: Provided, That requiring a running start student to provide and pay for consumable supplies, textbooks, and other materials to be retained by the student does not constitute the assessment of tuition or a fee for purposes of this section: Provided further, That this limitation on the assessment of tuition and fees does not apply to a student's college and university enrollment ((~~above and~~)) beyond ((~~running start program enrollment limitations under this chapter (i.e., college and university enrollment in excess of one FTE and college and university summer enrollment may be conditioned upon the payment of regular tuition and fees)~~)) the limitations which may be claimed for state basic education funding under running start in accordance with WAC 392-121-136.

AMENDATORY SECTION (Amending Order 95-02, filed 4/14/95, effective 5/15/95)

WAC 392-169-115 Finance—Limitations on enrollment counts. No running start student enrolled in one or more institutions of higher education reported under WAC 392-169-105 and 392-169-110 shall exceed one full-time equivalent running start student on any enrollment count date except for the month of January or more than one annual average full-time equivalent student in any school year. An exception is allowed for January when the change in high school semesters may result in students exceeding the FTE limitation until the high school begins a new term.

WSR 12-20-027
PROPOSED RULES
BELLINGHAM TECHNICAL COLLEGE
[Filed September 26, 2012, 10:52 a.m.]

Continuance of WSR 12-15-048.

Preproposal statement of inquiry was filed as WSR 12-01-078.

Title of Rule and Other Identifying Information: Use of facilities for first amendment activities: Chapter 495B-140 WAC, Use of college facilities and chapter 495B-120 WAC, College code of conduct.

Hearing Location(s): Bellingham Technical College, College Services, Room 215, 3028 Lindbergh Avenue, Bellingham, WA 98248, on October 11, 2012, at 3:15 p.m.

Date of Intended Adoption: October 17, 2012.

Submit Written Comments to: Ronda Laughlin, 3028 Lindbergh Avenue, Bellingham, WA 98248, e-mail rlaughlin @btc.ctc.edu, fax (360) 752-7134, by October 1, 2012.

Assistance for Persons with Disabilities: Contact Mary Gerard by October 1, 2012, TTY (360) 752-8515 or (360) 752-8576.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update wording to address first amendment activities and processes on the Bellingham Technical College campus by students, staff and visitors.

Reasons Supporting Proposal: See above.

NOTE: Second hearing to provide opportunity for additional testimony and feedback. No additional changes have been made.

Statutory Authority for Adoption: RCW 28B.50.130.

Statute Being Implemented: RCW 28B.50.130.

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

Name of Proponent: Bellingham Technical College, governmental.

Name of Agency Personnel Responsible for Drafting: Ronda Laughlin, College Services, Room 213, (360) 752-8334; Implementation and Enforcement: Debra Jones, College Services, Room, (360) 752-8313.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The amendments to this rule do not have an economic impact to small business.

A cost-benefit analysis is not required under RCW 34.05.328. There is [are] not costs imposed with the amendments to this rule.

September 26, 2012
Patricia L. McKeown
President

WSR 12-20-053
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(By the Code Reviser's Office)
[Filed October 2, 2012, 9:06 a.m.]

WAC 388-106-0010 and 388-106-0130, proposed by the department of social and health services in WSR 12-07-080 appearing in issue 12-07 of the State Register, which was distributed on April 4, 2012, is withdrawn by the code reviser's office 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 12-20-054
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed October 2, 2012, 9:27 a.m.]

Original Notice.

Expedited rule making—Proposed notice was filed as WSR 12-12-062.

Title of Rule and Other Identifying Information: Chapter 296-155 WAC, Safety standards for construction work. Specifically, Part F-1 - Rigging requirements for material handling and Part L - Cranes, rigging, and personnel lifting. References throughout chapter 296-155 WAC are being updated as well.

Hearing Location(s): DoubleTree by Hilton, Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, at 9:00 a.m., on November 8, 2012; at the Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501, at 9:00 a.m., on November 13, 2012; and at the DoubleTree by Hilton, Seattle Airport, 18740 International Boulevard, Seattle, WA 98188, at 9:00 a.m., on November 14, 2012.

Date of Intended Adoption: December 4, 2012.

Submit Written Comments to: Cindy Ireland, P.O. Box 44620, Olympia, WA 98504, e-mail cynthia.ireland@lni.wa.gov, fax (360) 902-5619, by 5 p.m., November 20, 2012.

Assistance for Persons with Disabilities: Contact Beverly Clark by October 23, 2012, at (360) 902-5516 or beverly.clark@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department filed expedited proposed rules under WSR 12-12-062 addressing the following issues: Extending the date by which the requirement relating to written and practical testing requirements for qualified riggers is effective; the addition of language to be at-least-as-effective-as the federal rule; and clarification of the scope of the rule to include the following existing requirements: Rigging for all construction activities (WAC 296-155-556); and personnel lifting with attached or suspended platforms using cranes or derricks (WAC 296-155-547). The department received five written objections to the expedited rule process.

In consideration of the objections received and other feedback from stakeholders, this proposed rule moves the rigging requirements for material handling equipment to a separate part under chapter 296-155 WAC, Part F-1. The rigger qualification requirements for material handling is changed to be more consistent with the previous rigger qualifications for material handling equipment, eliminating the requirement for written and practical testing for riggers to be considered qualified when conducting rigging on material handling equipment. This proposed rule language also includes changes in the expedited rules filed for which no objections were received: Extending the date by which the requirement relating to written and practical testing requirements for qualified riggers is effective under chapter 296-155 WAC, Part L; the addition of language to be at-least-as-effective-as the federal rule; and clarification of the scope of the rule to include personnel lifting with attached or suspended platforms using cranes or derricks (WAC 296-155-547).

NEW SECTIONS:

Chapter 296-155 WAC, Part F-1 Rigging requirements for material handling.

- Create this new part relating to rigging requirements for material handling.

WAC 296-155-336 Rigging requirements for material handling.

- There are no requirements in this section.

WAC 296-155-33600 Scope.

- Create this section explaining what Part F-1 pertains to.

WAC 296-155-33605 Definitions.

- Adds the following applicable definitions to this part: Angle of loading, anti two-block device, basket hitch, below-the-hook lifting device, bird caging, braided wire rope, bridle wire rope sling, cable laid endless sling-mechanical joint, cable laid grom-

met-hand tucked, center of gravity, choker hitch, come-a-long, competent person, cross rod, design factor, electrical contact, fabric (metal mesh), fall zone, flange points, hitch (hitched), hoist, hoisting, hoisting equipment, hook latch, load, load ratings, master coupling link, master link, mechanical coupling link (alloy steel chain), operational controls, procedures, qualified person, qualified rigger, rated capacity, rotation resistant rope, RPE, RPSE, running wire rope, safety or health standard, section, sling, spiral, standing wire rope, two blocking, vertical hitch, wire rope, working load.

WAC 296-155-337 Rigging—General requirements.

- There are no requirements in this section.

WAC 296-155-33700 Rigger qualifications.

- Create this section outlining the qualifications for riggers who do rigging while doing material handling activities.

WAC 296-155-33705 General requirements.

- General requirements relating to all rigging are located in this section. These requirements are either in the current federal rule, current state rule or are in an industry consensus standard.

WAC 296-155-338 Slings.

- There are no requirements in this section.

WAC 296-155-33800 Chain slings.

- Requirements relating to chain slings are located in this section. These requirements are either in the current federal rule, current state rule or are in an industry consensus standard.

WAC 296-155-33805 Wire rope slings.

- Requirements relating to wire rope slings are located in this section. These requirements are either in the current federal rule, current state rule or are in an industry consensus standard.

WAC 296-155-33810 Metal mesh slings.

- Requirements relating to metal mesh slings are located in this section. These requirements are either in the current federal rule, current state rule or are in an industry consensus standard.

WAC 296-155-33815 Synthetic rope slings.

- Requirements relating to synthetic rope slings are located in this section. These requirements are either in current federal rule, current state rule or are in an industry consensus standard.

WAC 296-155-33820 Synthetic webbing slings.

- Requirements relating to synthetic webbing slings are located in this section. These requirements are either in current federal rule, current state rule or are in an industry consensus standard.

WAC 296-155-33825 Synthetic roundslings.

- Requirements relating to synthetic roundslings are located in this section. These requirements are either in federal rule, current state rule or are in an industry consensus standard.

WAC 296-155-339 Rigging hardware and lifting devices other than slings and rigging hardware.

- There are no requirements in this section.

WAC 296-155-33900 General requirements.

- General requirements relating to rigging hardware are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-33905 Shackles.

- Requirements relating to shackles are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-33910 Adjustable hardware.

- Requirements relating to adjustable hardware are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-33915 Compression hardware.

- Requirements relating to compression hardware are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-33920 Links, rings, and swivels.

- Requirements relating to links, rings, and swivels are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-33925 Rigging blocks.

- Requirements relating to rigging blocks are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-340 Lifting devices other than slings and rigging hardware.

- There are no requirements in this section.

WAC 296-155-34005 Structural and mechanical lifters.

- Requirements relating to structural and mechanical lifters are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-34010 Vacuum lifters.

- Requirements relating to vacuum lifters are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-34015 Close proximity lifting magnets.

- Requirements relating to close proximity lifting magnets are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-34020 Remotely operated lifting magnets.

- Requirements relating to remotely operated lifting magnets are located in this section. These requirements came from an industry consensus standard.

WAC 296-155-34025 Scrap and material handling grapples.

- Requirements relating to scrap and material handling grapples are located in this section. These requirements came from an industry consensus standard.

AMENDED SECTIONS:

Chapter 296-155 WAC, Part F Material handling, storage, use and disposal.

- Remove the words "material handling" from the title of this part.

WAC 296-155-529 Crane certifier accreditation and crane certification.

- Change the title of this section to Scope and definitions. The crane certifier accreditation starts with WAC 296-155-531.

WAC 296-155-52900 Scope.

- Reformat this section by breaking out the information and creating new subsections. The first section, subsection (3) provides a list of equipment being exempted from the crane certifier accreditation and operator qualifications and certification portion of the rule. Create a subsection (4) that provides a list of equipment that would be exempted from Part L of this chapter.
  - The equipment that would be exempted from the certifier accreditation and operator qualifications:
    - Cranes having a maximum capacity of one ton or less.
    - Powered industrial trucks (forklifts) when configured to hoist and lower (by means of a winch or hook) and horizontally move a suspended load.
    - Service cranes with booms that rotate manually.
    - Overhead/bridge, gantry cranes, semi-gantry, cantilever gantry, wall cranes, storage bridge cranes, launching gantry cranes, and similar equipment having the same fundamental characteristics, irrespective of whether it travels on tracks, wheels, or other means, when performing construction activities and not permanently installed.
  - The equipment that would be exempted from Part L of this chapter:
    - Equipment included in subsection (1) of this section while it has been converted or adapted for nonhoisting/lifting use. Such conversions/adaptations include, but are not limited to, power shovels, excavators and concrete pumps.
    - Power shovels, excavators, wheel loaders, backhoes, loader backhoes, track loaders.
    - Automotive wreckers and tow trucks when used to clear wrecks and haul vehicles.
    - Equipment originally designed as vehicle-mounted aerial devices (for lifting personnel) and self-propelled elevating work platforms.
    - Hydraulic jacking systems, including telescopic/hydraulic gantries.
    - Stacker cranes.
    - Mechanic's truck with a hoisting device when used in activities related to equipment maintenance and repair.
    - Equipment that hoists by using a come-a-long or chainfall.
    - Dedicated drilling rigs.
    - Gin poles used for the erection of communication towers.
    - Tree trimming and tree removal work.
    - Anchor handling or dredge-related operations with a vessel or barge using an affixed A-frame.
    - Roustabouts.
    - Machines equipped with a boom that is limited to up and down movement only and does not rotate.
    - Conveyors.
    - Pump hoists with booms that do not rotate.
    - Cranes and their operators used on-site in manufacturing facilities or powerhouses for occasional or routine maintenance and repair work.
    - Helicopter cranes.
    - Permanently installed overhead/bridge, gantry cranes, semi-gantry, cantilever gantry, wall cranes, storage bridge cranes, and others having the same fundamental characteristics.
    - Digger derricks when used for activities that are covered under chapter 296-45 WAC, Safety standards for electrical workers, or chapter 296-32 WAC, Safety standards for telecommunications. Cranes other than digger derricks when used for activities that are covered under chapter 296-45 WAC, Safety standards for electrical workers, or chapter 296-32 WAC, Safety standards for telecommunications, are NOT exempt.
    - Powered industrial trucks (forklifts) except when configured to hoist and lower (by means of a winch or hook) and horizontally move a suspended load.
- Add a note for clarity that reads, "Rigging requirements for material handling is located in Part F-1 of this chapter."
- In subsection (1), add the words "the following." The first sentence reads, "Except as provided in sub-

section (3) of this section, this part applies to the following:"

- Create a new subsection (1)(b) for clarity. It reads, "Personnel lifting with attached or suspended platforms using cranes or derricks (WAC 296-155-547)."
- Renumber subsections (5) through (8).

WAC 296-155-52902 Definitions.

- In the definition of "attachments" change the word "means" to "mean" and "or" to "of" to match the federal equivalent. It reads, "Attachments mean any device that expands the range of tasks that can be done by the crane/derrick. Examples include, but are not limited to: An auger, drill, magnet, piledriver, and boom-attached personnel platform."
- Add a definition for "Jib stop" to match the federal equivalent. It reads, "Jib stop (also referred to as a jib backstop), is the same type of device as a boom stop but is for a fixed or luffing jib."
- Delete the last sentence in the definition of "mobile cranes." The federal definition had this sentence in their proposed rule but did not in their adopted rule. The sentence being removed reads, "These are referred to in Europe as a crane mounted on a truck carrier."

WAC 296-155-53300 Operator qualifications and certification.

- In the note after Table 3, add the words "covered under this part" for clarity. It reads, "Cranes and other lifting machines covered under this part that are exempt can be found in WAC 296-155-52900(3)."

WAC 296-155-53306 Rigger qualifications.

- In subsection (1), clarify the language for consistency. It reads, "The rigger must meet the qualification requirements (subsection (3) of this section) prior to performing hoisting activities for assembly and disassembly work (WAC 296-155-53402 (19)(a)). A qualified rigger is required whenever employees are engaged in hooking, unhooking, or guiding the load, or in the initial connection of a load to a component or structure, and are within the fall zone (WAC 296-155-53400 (43)(c)). This requirement must be met by using either Option (1) or Option (2)."
- In subsection (3)(g), modify the note to allow an additional one hundred eighty days for employers to come into compliance with the requirement relating to having qualified riggers pass a written and practical test. It reads, "The provisions of subsection (3)(g) of this section are not required until February 1, 2013."
- Add a new note for clarity. It reads, "This section does not require that each and every worker associated with the rigging of a component or structure to be a "fully qualified rigger" as defined in this section, the requirement is for at least one of the workers to be a fully qualified rigger. However, all other associated workers must be qualified by training or experience to perform their assigned tasks (WAC 296-155-035(2))."

WAC 296-155-53400 General requirements.

- In subsection (1), add the words "covered under this part." It reads, "All cranes and derricks covered under this part, except for those exempted in WAC 296-155-52900(3), must be certified annually by an accredited certifier recognized by the department, for detailed information about this certification see WAC 296-155-532."
- In subsection (2), add the words "covered under this part." It reads, "All crane and derrick operators covered under this part, except for those exempted in WAC 296-155-52900(3), must be qualified as required by WAC 296-155-533."
- In subsection (4)(a), replace the word "provide" with the words "develop and ensure compliance with" to match the federal equivalent. It reads, "Where the manufacturer procedures are unavailable, the employer must develop and ensure compliance with all procedures necessary for the safe operation of the crane/derrick and attachments."
- In subsection (29), replace the language to match the federal equivalent. It reads,
  "(a) Load hooks (including latched and unlatched types), ball assemblies and load blocks must be of sufficient weight to overhaul the line from the highest hook position for boom or boom and jib lengths and the number of parts of the line in use.
  (b) Crane hooks must be equipped with latches or self-locking devices unless a qualified person determines that it is safer to hoist and place the load without latches (or with latches removed/tied back or otherwise disabled) and routes for the loads are preplanned to ensure that no employee is required to work in the fall zone except for employees necessary for the hooking or unhooking of the load.
  (c) The latch or self-locking device (when used) must bridge the throat opening of the hook for the purpose of retaining slings or other lifting devices under slack conditions."
- In subsection (43)(a), add the words "to the extent consistent with public safety" to match the federal equivalent. It reads, "Where available, hoisting routes that minimize the exposure of employees to hoisted loads must be used to the extent consistent with public safety."
- In subsection (43)(c)(ii), add a reference to subsection (29)(b).
- In subsection (54)(d), add language to match the federal equivalent. It reads, "If the competent person determines that there is slack rope condition requiring respooling of the rope, it must be verified (before starting the lift) that the rope is seated on the drum and in the sheaves as the slack is removed."
- In subsection (61), add language to match the federal equivalent. It reads, "Except for proof load testing required under WAC 296-155-53202 through 296-155-53212, no crane/derrick is permitted to be

loaded beyond the specifications of the load rating chart, unless authorized by the crane manufacturer. The operator must not be required to operate the crane/derrick in a manner that would violate this requirement."

- Add a new subsection (64) to match the federal equivalent. It reads, "The brakes must be adjusted in accordance with manufacturer procedures to prevent unintended movement."
- Renumber the remaining subsections.

WAC 296-155-53402 Assembly/disassembly.

- After subsection (1)(b), add a note to match the federal equivalent. It reads, "Note: The employer must follow manufacturer procedures when an employer uses synthetic slings during assembly or disassembly of cranes/derricks, see subsection (19) of this section."
- In subsection (18)(b), add language relating to locomotive cranes to match the federal equivalent. It reads, "The outriggers must be set to remove the crane weight from the wheels, except for locomotive cranes (see subsection (18)(f) of this section for use of outriggers or locomotive cranes)."
- Add a subsection (18)(f) relating to locomotive cranes to match the federal equivalent. It reads, "For locomotive cranes, when using outriggers or stabilizers to handle loads, the manufacturer's procedures must be followed. When lifting loads without using outriggers or stabilizers, the manufacturer's procedures must be met regarding truck wedges or screws."

WAC 296-155-53403 Fall protection.

- In subsection (2)(b), add language relating to boom walkways to match the federal equivalent. It reads, "Boom walkway criteria. The walkways must be at least twelve inches wide."
- In subsection (3)(b), add the word "derricks" for consistency.
- After subsection (5)(b), add a note for clarity. It reads, "Note: If the equipment is running and the employee is at or near the draw-works, precautions should be taken to ensure the fall protection gear will not become entangled."
- After subsection (6), add a note for clarity. It reads, "Note: If the equipment is running and the employee is at or near the draw-works, precautions should be taken to ensure the fall protection gear will not become entangled."
- After subsection (9)(a), add a note for clarity. It reads, "Note: If the equipment is running and the employee is at or near the draw-works, precautions should be taken to ensure the fall protection gear will not become entangled."

WAC 296-155-53404 Wire rope.

- In subsection (2)(c), update a reference.

WAC 296-155-53406 Signals.

- After subsection (3)(a), add a reference to the hand signal chart located in the appendices of this part. It reads, "See WAC 296-155-56400 for the hand signal chart."

WAC 296-155-53408 Power line safety.

- In subsection (1)(b)(iii)(A)(IV), add a note that defines what a dedicated spotter is. Copied this definition from WAC 296-155-52902, it reads, "Note: To be considered a dedicated spotter, the requirements of WAC 296-155-53302 (signal person qualifications) must be met and his/her sole responsibility is to watch the separation between the power line and; the equipment, the load line and load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached."
- In subsection (2)(b)(iv)(B)(IV), add a note that defines what a dedicated spotter is. Copied this definition from WAC 296-155-52902, it reads, "Note: To be considered a dedicated spotter, the requirements of WAC 296-155-53302 (signal person qualifications) must be met and his/her sole responsibility is to watch the separation between the power line and; the equipment, the load line and load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached."
- In subsection (2)(d)(ii)(D), correct a reference.
- In subsection (4), bold the word "all."
- In subsection (4)(d)(i), add the language "but are not limited to" to match the federal equivalent. It reads, "The power line owner/operator or registered professional engineer who is a qualified person with respect to electrical power transmission and distribution determines the minimum clearance distance that must be maintained to prevent electrical contact in light of the on-site conditions. The factors that must be considered in making this determination include, but are not limited to: Conditions affecting atmospheric conductivity; time necessary to bring the crane/derrick, load line and load (including rigging and lifting accessories) to a complete stop; wind conditions; degree of sway in the power line; lighting conditions, and other conditions affecting the ability to prevent electrical contact."
- In subsection (4)(e)(ii)(A), add the language "but are not limited to" to match the federal equivalent. It reads, "Be equipped with a visual aid to assist in identifying the minimum clearance distance. Examples of a visual aid include, but are not limited to: A clearly visible line painted on the ground; a clearly visible line on stanchions; a set of clearly visible line-of-sight landmarks (such as a fence post behind the dedicated spotter and a building corner ahead of the dedicated spotter)."
- In subsection (4)(e)(ii)(D), add a note that defines what a dedicated spotter is. Copied this definition from WAC 296-155-52902, it reads, "Note: To be

considered a dedicated spotter, the requirements of WAC 296-155-53302 (signal person qualifications) must be met and his/her sole responsibility is to watch the separation between the power line and; the equipment, the load line and load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached."

WAC 296-155-53409 Training.

- In subsection (1)(d)(iii), add the words "covered under this part" and update a reference. It reads, "For operators using equipment covered under this part that are exempt in WAC 296-155-52900 (3)(b), the employer must ensure that each operator is trained on the safe operation of the equipment the operator will be using."
- Add a new subsection (1)(e) to match the federal equivalent and renumber. It reads,
  "(e) The employer must train each operator of the equipment covered by this part in the following practices:
  (i) On friction equipment, whenever moving a boom off a support, first raise the boom a short distance (sufficient to take the load of the boom) to determine if the boom hoist brake needs to be adjusted. On other types of equipment with a boom, the same practice is applicable, except that typically there is no means of adjusting the brake; if the brake does not hold, a repair is necessary. See WAC 296-155-53400 (68) and (69).
  (ii) Where available, the manufacturer's emergency procedures for halting unintended equipment movement."
- Add a new subsection (2)(c) to match the federal equivalent. It reads, "Whenever the employer is required to provide training under this part, the employer must provide the training at no cost to the employee."

WAC 296-155-54200 Overhead/bridge and gantry cranes—General.

- In subsection (2), remove the words "in a manufacturing facility or a powerhouse" to be consistent with the federal equivalent. It reads, "Overhead and gantry cranes that are not permanently installed must follow the applicable requirements in chapter 296-155 WAC Part L."

WAC 296-155-54410 Sideboom cranes.

- In subsection (1), update a reference.

WAC 296-155-55110 Proof load test platforms and rigging.

- In subsection (1)(a)(ii), add the words "by controlled load lowering, braked," to match the federal equivalent. It reads, "The platform must be lowered by controlled load lowering, braked, and held in a suspended position for a minimum of five minutes with the test load evenly distributed on the platform."

WAC 296-155-55115 Trial lift.

- In subsection (6)(a), add the words "with the personnel and materials/tools on board" to match the federal equivalent. It reads, "The platform must be hoisted a few inches with the personnel and materials/tools on board and inspected by a competent person to ensure that it is secure and properly balanced."

WAC 296-155-55210 Crane or derrick operation requirements for personnel lifting.

- In subsection (1)(f), add the word "cautious" to match the federal equivalent. It reads, "Perform all movements of the platform or crane/derrick in a slow, controlled, cautious manner to minimize sudden movement of the platform;"
- In subsection (1)(j)(ii), replace the word "or" with "and must be" to match the federal equivalent. It reads, "The crane/derrick operator must be at a set of crane controls that include boom and swing functions of the crane, and must be on-site and in view of the crane/derrick and platform."

WAC 296-155-55300 Personnel lifting requirements.

- In subsection (2), add the words "sustained or gusts" to match the federal equivalent. It reads, "Personnel platforms cannot be used in winds (sustained or gusts) in excess of twenty mph (32.2 km/hr) or in electric storms, snow, ice, sleet, or other adverse weather conditions which could affect the safety of personnel."

WAC 296-155-556 Rigging—General requirements.

- Deleted the words "The rigging requirements in this part apply to all construction activities."

WAC 296-155-55600 General requirements.

- In subsection (1), add clarifying language for consistency. It reads, "Employers must use at least one qualified rigger as follows:"
- In subsection (1)(a), remove the words "additionally, qualified riggers are required."
- In subsection (1)(b), add clarifying language and a note for consistency. It reads, "Whenever employees are engaged in hooking, unhooking, or guiding a load, or in the initial connection of a load to a component or structure, and are within the fall zone (WAC 296-155-53400 (43)(c)." The note reads, "Note: See qualified rigger requirements located in WAC 296-155-53306."
- Create a new subsection (9) and add language to match the federal equivalent and renumber. It reads, "Special custom design grabs, hooks, clamps, or other lifting accessories, for such units as modular panels, prefabricated structures and similar materials, must be marked to indicate the safe working loads and must be proof tested prior to use to one hundred and twenty-five percent of their rated load."
- Create a new subsection (12) and add language to match the federal equivalent. It reads, "All rigging hardware must have permanently affixed and legible

identification markings as prescribed by the manufacturer that indicate the recommended safe working load."
- Renumber the subsections in this section.

WAC 296-155-55805 Wire rope slings.
- In subsection (8), create a new subsection (8)(d) and add language to match the federal equivalent and renumber. It reads, "Protruding ends of strands in splices on slings and bridles must be covered or blunted."
- In subsection (8), create a new subsection (8)(e) and add language to match the federal equivalent and renumber. It reads, "A sling must not be pulled from under a load when the load is resting on the sling."

WAC 296-155-55820 Synthetic webbing slings.
- In subsection (6)(a), create a new subsection (6)(a)(vi) and add language to match the federal equivalent and renumber. It reads, "Fittings must be of a minimum breaking strength equal to that of the sling."
- In subsection (6), create a new subsection (6)(b) and add language to match the federal equivalent and renumber. It reads, "Webbing. Synthetic webbing must be of uniform thickness and width and selvage edges must not be split from the webbing's width."

WAC 296-155-56100 General requirements.
- In subsection (3)(c), add the words "at least one of the workers" for clarity. It reads, "At least one of the workers using rigging hardware must meet the requirements of WAC 296-155-53306."

WAC 296-155-56400 Mobile crane hand signal chart.
- Deleted the illustration in this section and added the following language, "See ASME B30.5 - 2011, Standard hand signals for controlling crane operations."

WAC 296-155-704 Hoisting and rigging.
- In subsection (3)(b), add language for clarity. It reads, "A qualified rigger (when a crane/derrick is being used as the hoisting machinery) is a rigger that meets the requirements in WAC 296-155-53306 and all rigging gear must be inspected prior to each shift in accordance with WAC 296-155-556 through 296-155-56220. A qualified rigger (when hoisting machinery other than a crane/derrick is being used) must meet the requirements in WAC 296-155-33700 and all rigging gear must be inspected prior to each shift in accordance with WAC 296-155-337 through 296-155-34025."

REPEALED SECTION:

WAC 296-155-329 Qualified person—Rigging.

Reasons Supporting Proposal: See above.

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

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, 29 C.F.R. 1926 Subparts H and CC.

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

Name of Agency Personnel Responsible for Drafting: Alan Lundeen, Tumwater, Washington, (360) 902-4758; Implementation and Enforcement: Anne F. Soiza, Tumwater, Washington, (360) 902-5090.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Changes are exempt when: Explicitly and specifically dictated by federal statute; correct typographical errors or clarifies language without changing its effect; or are adopted from national consensus codes. RCW 19.85.025, referencing RCW 34.05.310 (4)(c) - (d). In addition, the analysis of the rule reveals that in addition to not imposing new costs on businesses, these revisions will actually make division of occupational safety and health rules easier for employers and employees to understand and use, and thus actually save them time.

A cost-benefit analysis is not required under RCW 34.05.328. No cost-benefit analysis was prepared. Changes are exempt when: Explicitly and specifically dictated by federal statute; correct typographical errors or clarifies language without changing its effect; or are adopted from national consensus codes. RCW 34.05.328 (5)(b)(iii) - (v). No new costs are imposed by this proposed rule.

October 2, 2012
Judy Schurke
Director

PART F
((~~MATERIAL HANDLING,~~)) STORAGE, USE, AND DISPOSAL

PART F-1
RIGGING REQUIREMENTS FOR MATERIAL HANDLING

NEW SECTION

WAC 296-155-336 Rigging requirements for material handling.

NEW SECTION

WAC 296-155-33600 Scope. (1) This part applies to material/load handling activities when using slings, rigging hardware, below-the-hook lifting devices when performing construction activities.

(2) This part does not apply to power-operated cranes and derricks when performing construction activities that fall under the scope of Part L of this chapter.

NEW SECTION

WAC 296-155-33605 Definitions. Angle of loading means the acute angle between horizontal and the leg of the rigging, often referred to as horizontal angle. See Figures 7 and 22.

Anti two-block device means a device that, when activated, disengages all crane functions whose movement can cause two-blocking.

Basket hitch means a method of rigging a sling in which the sling is passed around the load and both loop eyes or end fittings are attached to the lifting device.

Below-the-hook lifting device means a device used for attaching loads to a hoist. The device may contain components such as slings, hooks, rigging hardware, and lifting attachments.

Bird caging means the twisting of fiber or wire rope in an isolated area of the rope in the opposite direction of the rope lay, thereby causing it to take on the appearance of a bird cage.

Braided wire rope means a wire rope formed by plaiting component wire ropes.

Bridle wire rope sling means a sling composed of multiple legs with the top ends gathered in a fitting that goes over the lifting hook.

Cable laid endless sling-mechanical joint means a wire rope sling made endless from one continuous length of cable laid rope with the ends joined by one or more metallic fittings.

Cable laid grommet-hand tucked means an endless wire rope sling made from one continuous length of rope formed to make a body composed of six ropes around a rope core. The rope ends are tucked into the body, thus forming the core. No sleeves are used.

Center of gravity means the center of gravity of any object is the point in the object around which its weight is evenly distributed. If you could put a support under that point, you could balance the object on the support.

Choker hitch means a method of rigging a sling in which the sling is passed around the load, then through one loop eye, end fitting, or other device, with the other loop eye or end fitting attached to the lifting device. This hitch can be done with a sliding choker hook or similar device.

Come-a-long means a mechanical device typically consisting of a chain or cable attached at each end that is used to facilitate movement of materials through leverage.

Competent person means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

Cross rod means a wire used to join spirals of metal mesh to form a complete fabric. See Figure 11.

Design factor means the ratio between nominal or minimum breaking strength and rated load.

Electrical contact means when a person, object, or equipment makes contact or comes close in proximity with an energized conductor or equipment that allows the passage of current.

Fabric (metal mesh) means the flexible portion of the sling exclusive of end fittings consisting of a series of transverse spirals and cross rods.

Fall zone means the area (including, but not limited to, the area directly beneath the load) in which it is reasonably foreseeable that partially or completely suspended materials could fall in the event of an accident.

Flange points means a point of contact between rope and drum flange where the rope changes layers.

Hitch (hitched) means a method of rigging (attaching) a sling temporarily to a load or object for the purpose of lifting.

Hoist means a mechanical device for lifting and lowering loads by winding rope onto or off a drum.

Hoisting means the act of raising, lowering or otherwise moving a load in the air with equipment covered by this standard. As used in this standard, "hoisting" can be done by means other than wire rope/hoist drum equipment.

Hoisting equipment means a machine for lifting and lowering a load and moving it horizontally. The machine may be fixed or mobile and be driven manually, by power, or by a combination of both.

Hook latch means a mechanical device used to close the throat opening of a hook.

Load is the weight of the object being lifted or lowered, including the weight of the load-attaching equipment such as the load block, ropes, slings, shackles, and any other auxiliary attachment.

Load ratings means a set of rated loads for stipulated hoisting equipment configurations and operating conditions.

Master coupling link means an alloy steel welded coupling link used as an intermediate link to join alloy steel chain to master links.

Master link means forged or welded steel link used to support all members (legs) of an alloy steel chain sling or wire rope sling.

Mechanical coupling link (alloy steel chain) means a nonwelded, mechanically closed link used primarily to attach fittings to alloy steel chain.

Operational controls means levers, switches, pedals and other devices for controlling equipment operation.

Procedures include, but are not limited to: Instructions, diagrams, recommendations, warnings, specifications, protocols, and limitations.

Qualified person means a person who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training and experience, successfully demonstrated the ability to solve/resolve problems relating to the subject matter, the work, or the project.

Qualified rigger is a rigger who meets the requirements in WAC 296-155-33700.

Rated capacity means the maximum working load permitted by the manufacturer under specified working conditions. Such working conditions typically include a specific combination of factors such as equipment configuration, radii, boom length, and other parameters of use.

Rotation resistant rope means a type of wire rope construction which reduces the tendency of a rope to rotate about its axis under load. Usually, this consists of an inner system of core strands laid in one direction covered by an outer system of strands laid in the opposite direction.

RPE means a registered professional engineer licensed under RCW 18.43.040(1).

RPSE means a registered professional structural engineer licensed under RCW 18.43.040(1).

Running wire rope is a wire rope that moves over sheaves or drums.

Safety or health standard means a standard adopted under this chapter.

Section means a section of this part, unless otherwise specified.

Sling means an assembly to be used for lifting when connected to a lifting mechanism. The upper portion of the sling is connected to the lifting mechanism and the lower supports the load, as described in this part.

Spiral means a single transverse coil that is the basic element from which metal mesh is fabricated.

Standing wire rope means a supporting wire rope which maintains a constant distance between the points of attachment to the two components connected by the wire rope.

Two blocking means a condition in which a component that is uppermost on the hoist line such as the load block, hook block, overhaul ball, or similar component, comes in contact with the boom tip, fixed upper block or similar component. This binds the system and continued application of power can cause failure of the hoist rope or other component.

Vertical hitch means a method of rigging a sling in which the load is attached to the loop eye or end fitting at one end of the sling and the loop eye or end fitting at the other end is attached to the lifting device. Any hitch less than five degrees from the vertical may be considered a vertical hitch.

Wire rope means a flexible rope constructed by laying steel wires into various patterns of multiwired strands around a core system to produce a helically wound rope.

Working load means the external load applied to the hoisting equipment, including the personnel lifting platform, its contents, and the load attaching equipment, such as lowered load block, shackles, and slings.

NEW SECTION

WAC 296-155-337 Rigging—General requirements.

NEW SECTION

WAC 296-155-33700 Rigger qualifications. Riggers must be a qualified person who, by possession of a recognized degree or certificate of professional standing, or who, by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating the subject matter. Also has the authorization or authority by the nature of their position to take prompt corrective measures to eliminate them. The person must be knowledgeable in the requirements of this part as applicable to the tasks assigned, including but not limited to:

• "Know and understand of the requirements for slings, rigging hardware, and below-the-hook lifting devices, including their limitations, rigging practices, associated hazards, and inspection requirements;

• "Know and understand the application of the type of hitches used;

• "Know and understand load weight estimation, center of gravity, effect of angle on rigging components, and load turning.

NEW SECTION

WAC 296-155-33705 General requirements. (1) Employers must ensure all rigging activities covered under this part are performed by a qualified rigger or performed under the direction and supervision of a qualified rigger.

(2) All slings in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ASME B30.9-2010.

(3) All rigging hardware in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ASME B30.26-2010.

(4) All rigging gear must be used in accordance with the manufacturer's recommendations or a qualified person.

(5) All below-the-hook lifting devices in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ASME B30.20-2010.

(6) All hooks in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ASME B30.10-2009.

(7) Repair of hooks must be approved by the manufacturer or qualified person and as follows:

(a) Cracks, nicks, and gouges may be repaired by a competent person, all other repairs are done by the manufacturer or a qualified person;

(b) Grind longitudinally, following the contour of the hook;

(c) Do not reduce the dimension of the hook more than ten percent from the original.

(8) Hooks must not be modified by welding and/or drilling unless written approval by the manufacturer has been received.

(9) A qualified person must inspect the rigging equipment before each day or shift and:

(a) Consider the application the equipment will be used for, and determine if it's safe for use;

(b) Remove the equipment from service if using it will create a hazard or meets any of the removal criteria listed in this chapter.

(10) The rated load of the rigging equipment must not be exceeded.

(11) All rigging hardware must be inspected in accordance with Table 1, each day before using. If a daily inspection is not feasible because the hardware is in a semipermanent or inaccessible location, a periodic inspection is allowed instead of daily.

(12) Rigging hardware must be removed from service when it shows any conditions listed in Table 1, or any other hazardous condition.

Table 1
Rigging Hardware Inspection/Removal Criteria

For all hardware, inspect for the following:
Missing or illegible identification.
Indications of heat damage, including weld spatter or arc strikes.
Excessive pitting or corrosion.

For all hardware, inspect for the following:
Load bearing components that are: • Bent; • Twisted; • Distorted; • Stretched; • Elongated; • Cracked; • Broken.
Excessive nicks or gouges.
10% reduction of the original or catalog dimension at any point.
Excessive thread damage or wear, where applicable.
Evidence of unauthorized welding or modification.
Any other conditions that cause doubt as to the safety of continued use.
On **shackles,** also inspect for incomplete pin engagement.
On **swivels and swivel hoist rings,** check for lack of ability to freely rotate or pivot.
On **compression hardware,** also check for: Unauthorized replacement components; Insufficient number of wire rope clips; Improperly tightened wire rope clips; Damaged wire rope; Indications of wire rope slippage; Improper assembly.
On **swivels,** check for loose or missing nuts, bolts, cotter pins, snap rings, or other fasteners and retaining devices.
On **blocks** check for: – Loose or missing nuts, bolts, cotter pins, snap rings, or other fasteners and retaining devices; – Misalignment or wobble in sheaves; – Excessive sheave groove corrugation or wear.

(13) Any alteration or modification of rigging hardware must be in accordance with the hardware manufacturer or a qualified person and proof load tested to one hundred twenty-five percent. This test must be documented and available upon request.

(14) Welding of rigging hardware is prohibited unless authorized by the manufacturer or an RPE.

(15) Replacement parts must meet or exceed the original rigging hardware manufacturer's specifications.

(16) Rigging hardware selection must have the characteristics suitable for the application and environment where it will be used.

(17) Workers must keep all parts of their body from between the load and any rigging during the lift.

(18) If handling intermodal shipping containers at a construction site, the employer must follow the requirements in chapter 296-56 WAC, longshore, stevedore and waterfront related operations, Part F, Specialized terminals and the guidelines found in International Organization for Standardization (ISO) 3874 - Series 1 Freight Containers, fifth edition - Handling and Securing.

NEW SECTION

WAC 296-155-338 Slings.

NEW SECTION

WAC 296-155-33800 Chain slings. (1) Only use chain slings that are made from grade eighty or higher alloy steel chain.

(2) The following requirements must be met if manufacturing your own chain slings:

(a) Have a design factor of four;

(b) Meet the rated load requirements in subsection (9) of this section.

(3) Rate chain slings with the load capacity of the lowest rated component of the sling. For example, if you use fittings that are rated lower than the sling material itself, identify the sling with the lower rated capacity.

(4) Makeshift fittings, such as hooks or links formed from bolts, rods, or other parts are prohibited.

(5) All chain slings must have legible identification information attached to the sling which includes the following information:

(a) Name or trademark of the manufacturer;

(b) Grade;

(c) Nominal chain size;

(d) Number of legs;

(e) Rated loads for the vertical hitch and bridle hitch and the angle upon which it is based;

(f) Length (reach);

(g) Individual sling identification (e.g., serial numbers);

(h) Repairing agency, if the sling was ever repaired.

(6) Inspections.

(a) A qualified person must inspect chain slings before their initial use, according to Table 2, both:

(i) When the sling is new; and

(ii) Whenever a repair, alteration, or modification has been done.

(b) A qualified person must perform a visual inspection for damage, each day or shift the chain sling is used. Immediately remove from service any sling damaged beyond the criteria in Table 2.

(c) A qualified person must perform periodic inspections on chain slings according to Table 2.

(i) Each link and component must be examined individually, taking care to expose and examine all surfaces including the inner link surfaces.

(ii) Remove slings from use:

• If any of the conditions in Table 2 are found;

• When they have been exposed to temperatures above one thousand degrees Fahrenheit.

(d) A written record of the most recent periodic inspection must be kept, including the condition of the sling.

Note: An external code mark on the sling is an acceptable means of recording the inspection as long as the code can be traced back to a record.

Table 2
Chain Sling Inspection/Removal Criteria

Inspect alloy steel chain slings for the following conditions:	Perform inspections:
• Missing or illegible sling identification. • Cracks or breaks. • Excessive nicks, gouges, or wear beyond that allowed in Table 3, Minimum Allowable Thickness at Any Point on a Link. • Stretched chain links or components. • Bent, twisted or deformed chain links or components. • Evidence of heat damage. • Excessive pitting or corrosion. • Inability of chain or components to hinge (articulate) freely. • Weld spatter. • Hooks that have any of the following conditions: – Any visibly apparent bend or twist from the plane of the unbent hook; – Any distortion causing an increase in throat opening of five percent, not to exceed one-quarter inch, or as otherwise recommended by the manufacturer; – Wear exceeding ten percent of the original section dimension of the hook or its load pin, or as otherwise recommended by the manufacturer; – A self-locking mechanism that does not lock (if applicable); – Any latch that does not close the hook's throat (if applicable). • Other visible damage that raises doubt about the safety of the sling.	• At least once a year for slings in normal service, which means use within the rated load. • At least once a quarter for slings in severe service, which involves abnormal operating conditions. • As recommended by a qualified person for slings in special service, which is anything other than normal or severe.

Table 3
Minimum Allowable Thickness at Any Point on a Link

Nominal chain or coupling link size		Minimum allowable thickness at any point on the link	
Inches	Millimeters	Inches	Millimeters
7/32	5.5	0.189	4.80
9/32	7	0.239	6.07
5/16	8	0.273	6.93
3/8	10	0.342	8.69
1/2	13	0.443	11.26
5/8	16	0.546	13.87
3/4	20	0.687	17.45
7/8	22	0.750	19.05
1	26	0.887	22.53
1 1/4	32	1.091	27.71

(7) Repair, alterations, or modifications.

(a) Chain slings must be repaired as follows:

(i) Slings must only be repaired by the manufacturer or a qualified person;

(ii) Chain used for sling repair must be alloy steel chain manufactured and tested in accordance with ASTM A 391/A 391M for Grade 80 chain and ASTM A 973/A 973M for Grade 100 chain;

(iii) Components for alloy steel chain slings must be manufactured and tested in accordance with ASTM A 952/A 952M;

(iv) The use of mechanical coupling links within the body of a chain sling to connect two pieces of chain is prohibited;

(v) Replace cracked, broken, or bent chain links or components instead of repairing them.

(b) The sling must be marked to show the repairing agency.

(c) Repaired slings must be proof tested according to the requirements in subsection (8) of this section. If only replacing components of the sling, and the components were individually proof tested, the sling does not have to be tested as a whole.

Note: For additional requirements relating to repair and modification see WAC 296-155-33705(9).

(8) Proof test chain slings. Prior to initial use, all new and repaired chain and components of an alloy steel chain sling, either individually or as an assembly must be proof tested by the sling manufacturer or a qualified person. Follow the requirements in Table 4, Chain Sling Proof Load Requirements.

Table 4
Chain Sling Proof Load Requirements

When proof testing this type of equipment:	Then proof load:
• Single or multiple leg slings. • Components attached to single legs.	Each leg and component to at least two times the single leg vertical hitch rated load.
• Master links for double leg bridle slings. • Single basket slings. • Master coupling links connected to two legs.	To at least four times the single leg vertical hitch rated load.
• Master links for triple and quadruple leg bridle slings. • Double basket bridle sling.	To at least six times the single leg vertical hitch rated load.

(9) Chain slings rated loads, the term "working load limit" is commonly used to describe rated load.

Note: Rated loads are based on the following factors:
- Strength of sling materials;
- Design factor;
- Type of hitch;
- Angle of loading.

(a) Chain slings must be used within the rated loads shown in Tables 1 through 4 of ASME B30.9-2010. For angles that are not shown in these tables, either use the rated load for the next lower angle or one calculated by a qualified person.

(b) The use of horizontal sling angles less than thirty degrees are prohibited, unless recommended by the sling manufacturer or a qualified person. See Figure 1, Multiple-Leg Bridle Sling Hitch.

(c) Rated loads must be verified for slings used in a choker meet the values shown in the above referenced tables provided that the angle of choke is one hundred twenty degrees or greater. See Figure 2, Single-Leg Choker Hitch.

(d) Rated loads for angles of choke less than one hundred twenty degrees must be determined by the manufacturer or a qualified person.

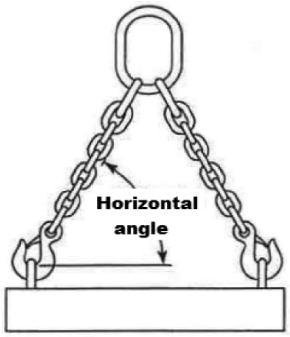


Figure 1
Multiple-Leg Bridle Sling Hitch

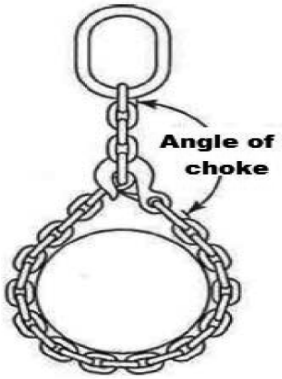


Figure 2
Single-Leg Choker Hitch

(10) Use of chain slings.

(a) Shorten or adjust slings using only methods approved by the manufacturer or a qualified person.

(b) Slings must not be shortened or lengthened by knotting or twisting.

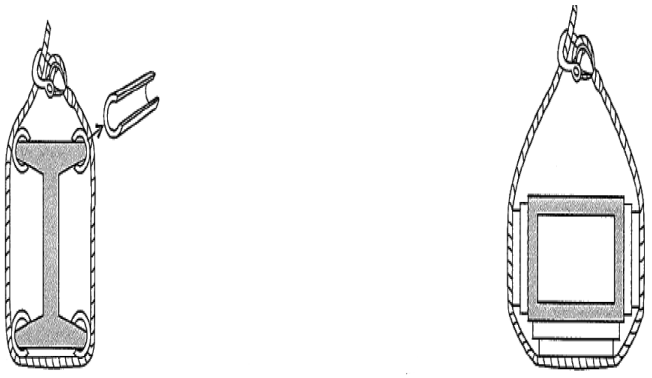
(c) Twisting and kinking must be avoided.

(d) Hitch slings in a way that provides control of the load.

(e) Balance the load in slings used in a basket hitch to prevent it from slipping.

(f) Slings must be protected from sharp edges of the load. See Figure 3.

(g) The sling must be prevented from snagging anything during the lift, with or without load.



Softeners can be made from split pipe, padding or blocking

Figure 3
Softeners

NEW SECTION

WAC 296-155-33805 Wire rope slings. (1) Manufacturing wire rope slings.

(a) Wire rope slings must be made from new or unused regular lay wire rope. The wire rope must be manufactured and tested in accordance with ASTM A 1023-02 and ASTM A 586.

(b) The following fabrication methods must be used to make wire rope slings:

(i) Hand splicing;

(ii) Turnback eye;

(iii) Return loop;

(iv) Flemish eye mechanical splicing;

(v) Poured or swaged socketing.

(c) Wire rope slings must have a design factor of five.

(d) Wire rope slings must meet the requirements in Table 6.

(e) Using any of the following when making wire rope slings is prohibited:

(i) Rotation resistant wire rope;

(ii) Malleable cast iron clips;

(iii) Knots;

(iv) Wire rope clips, unless:

• The application of the sling prevents using prefabricated slings;

• The specific application is designed by a qualified person.

(f) Wire rope clips, if used, must be installed and maintained in accordance with the recommendations of the clip manufacturer or a qualified person, or in accordance with the provisions of ASME B30.26-2010.

(g) Slings made with wire rope clips must not be used as a choker hitch.

Note: If using wire rope clips under these conditions, follow the guidance given in Table 5.

Table 5

Number, Torque Values, and Turn Back Requirements for U-Bolt Wire Rope Clips				**Number, Torque Values, and Turn Back Requirements for Double Saddle (Fist Grip) Wire Rope Clips**			
Clip & Wire Rope Size (inches)	**Min. No. of Clips**	**Amount of Rope Turn Back in Inches**	***Torque in Ft. Lbs.**	**Clip & Wire Rope Size (inches)**	**Min. No. of Clips**	**Amount of Rope Turn Back in Inches**	***Torque in Ft. Lbs.**
1/8	2	3-1/4	4.5	3/16-1/4	2	4	30
3/16	2	3-3/4	7.5	5/16	2	5	30
1/4	2	4-3/4	15	3/8	2	5-1/4	45
5/16	2	5-1/4	30	7/16	2	6-1/2	65
3/8	2	6-1/2	45	1/2	3	11	65
7/16	2	7	65	9/16	3	12-3/4	130
1/2	3	11-1/2	65	5/8	3	13-1/2	130
9/16	3	12	95	3/4	4	16	225
5/8	3	12	95	7/8	4	26	225
3/4	4	18	130	1	5	37	225
7/8	4	19	225	1-1/8	5	41	360
1	5	26	225	1-1/4	6	55	360
1-1/8	6	34	225	1-3/8	6	62	500
1-1/4	7	44	360	1-1/2	7	78	500
1-3/8	7	44	360				
1-1/2	8	54	360				
1-5/8	8	58	430				
1-3/4	8	61	590				
2	8	71	750				

2-1/4	8	73	750	
2-1/2	9	84	750	
2-3/4	10	100	750	
3	10	106	1200	
3-1/2	12	149	1200	

* The tightening torque values shown are based upon the threads being clean, dry, and free of lubrication.

Table 6
Wire Rope Sling Configuration Requirements

If you have:	Then you need:
• Slings made of rope with 6x19 and 6x36 classification. • Cable laid slings.	A minimum clear length of rope ten times the rope diameter between splices, sleeves, or end fittings (see Figure 4, Minimum Sling Length) unless approved by a qualified person.
• Braided slings.	A minimum clear length of rope forty times the component rope diameter between the loops or end fittings (see Figure 5, Minimum Braided Sling Length) unless approved by a qualified person.
• Grommets and endless slings.	A minimum circumferential length of ninety-six times the body diameter of the grommet or endless sling unless approved by a qualified person.
• Other configurations.	Specific limitation data provided by a qualified person. These slings must meet all other requirements of ASME B30.9-2010.

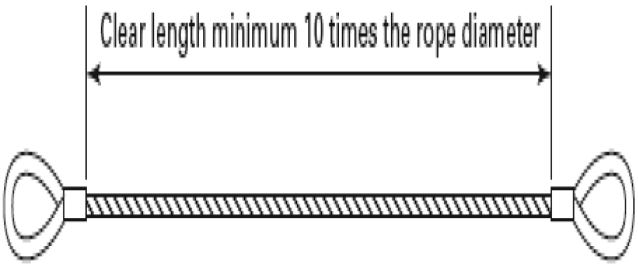


Figure 4 Minimum Sling Length
For rope with 6x19 and 6x36 classification or Cable Laid Slings

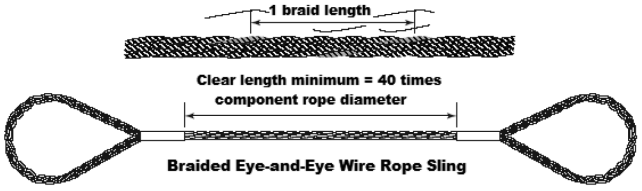


Figure 5
Minimum Braided Sling Length

(2) Wire rope sling fittings.

(a) Fittings must be used according to the fitting manufacturer's directions.

(b) Rate slings with the load capacity of the lowest rated component of the sling. For example, if you use fittings that are rated lower than the sling material itself, identify the sling with the lower rated capacity.

(c) Weld any end attachments, except covers to thimbles, before assembling the sling.

(3) Identification information. All wire rope slings must have legible identification information attached to the sling which includes the information below, see sample tag in Figure 6. For slings in use that are manufactured before the effective date of this rule, the information below must be added before use or at the time the periodic inspection is completed.

(a) Name or trademark of the manufacturer.

(b) Diameter or size.

(c) Rated loads for the types of hitches used and the angle that the load is based on.

(d) Number of legs, if more than one.

(e) Repairing agency, if the sling is ever repaired.

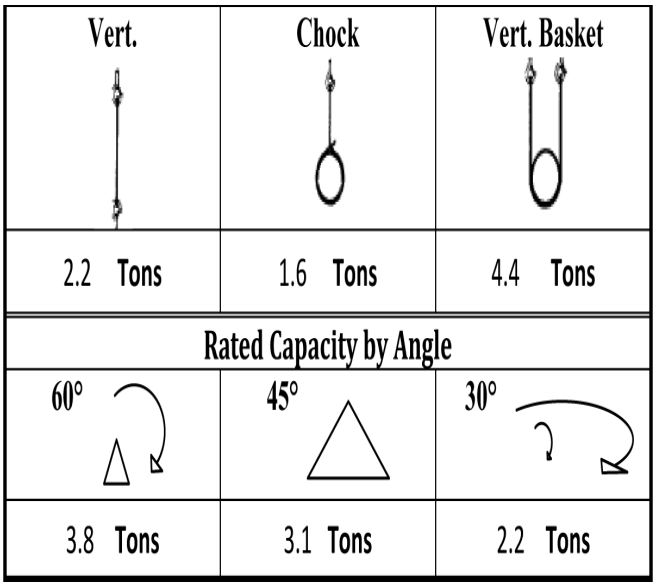


Figure 6
Sample Wire Rope Sling ID Tag

Note: Sample tag for a 1/2" single-leg sling 6x19 or 6x36 classification, extra improved plow steel (EIPS) grade fiber core (FC) wire rope with a mechanical splice (ton = 2,000 lb).

(4) Inspection.

(a) A qualified person must inspect wire rope slings before their initial use, according to Table 7, both:

(i) When the sling is new; and

(ii) Whenever a repair, alteration, or modification has been done.

(b) A qualified person must perform a visual inspection for damage, each day or shift the wire rope sling is used:

(i) Include all fastenings and attachments;

(ii) Immediately remove any sling from service that is damaged beyond the criteria listed in Table 7; or

(iii) Remove fiber core wire rope slings that have been exposed to temperatures higher than one hundred eighty degrees Fahrenheit.

(c) A qualified person must perform periodic inspections on wire rope slings according to Table 7.

(5) Repair, alterations, or modifications.

(a) Repair wire rope slings as follows:

(i) Make sure slings are only repaired by the sling manufacturer or a qualified person;

(ii) Mark the sling to show the repairing agency;

(iii) Do not repair wire rope used in slings, wire rope must be replaced. Only end attachments and fittings can be repaired on a wire rope sling.

(b) Modification or alterations to end attachments or fittings must be considered as repairs and must conform to all other provisions of this part.

(c) Proof load test repaired slings according to the requirements in subsection (6) of this section.

(6) Proof load tests. Make sure the sling manufacturer or a qualified person proof load tests the following slings before initial use, according to Table 8:

(a) All repaired slings;

(b) All slings incorporating previously used or welded fittings;

(c) For single- or multiple-leg slings and endless slings, each leg must be proof loaded according to the requirements listed in Table 8 based on fabrication method. The proof load test must not exceed fifty percent of the component ropes' or structural strands' minimum breaking strength;

Table 7
Wire Rope Sling Inspection and Removal Criteria

Inspect wire rope slings for the following conditions:	Perform inspections:
• Missing or illegible sling identification. • Severe localized abrasion or scraping. • Kinking, crushing, birdcaging, or any other condition resulting in damage to the rope structure. • Evidence of heat damage. • Severe corrosion of the rope, end attachments, or fittings. • End attachments that are cracked, deformed, or worn to the extent that the strength of the sling is substantially affected. • Broken wires: – For strand-laid and single-part slings, ten randomly distributed broken wires in one rope lay, or five broken wires in one strand in one rope lay; – For cable-laid slings, twenty broken wires per lay; – For six-part braided slings, twenty broken wires per braid; – For eight-part braided slings, forty broken wires per braid.	• At least once a year for slings in normal service. • At least once a quarter for slings in severe service. • As recommended by a qualified person for slings in special service.

Inspect wire rope slings for the following conditions:	Perform inspections:
• Hooks that have any of the following conditions: – Any visibly apparent bend or twist from the plane of the unbent hook; – Any distortion causing an increase in throat opening five percent, not to exceed one-quarter inch, or as recommended by the manufacturer; – Wear exceeding ten percent, of the original section dimension of the hook or its load pin, or as recommended by the manufacturer; – Self-locking mechanism that does not lock. • Other visible damage that raises doubt about the safety of the sling.	

Table 8
Wire Rope Sling Proof Load Test Requirements

Type of equipment:	Proof load test:
• Mechanical splice slings.	Each leg to at least two times the single leg vertical hitch rated load.
• Swaged socket and poured socket slings.	Each leg to at least two times, but not more than two and one-half times, the single-leg vertical hitch rated load.
Note: For mechanical splice, swaged socket and poured socket slings follow the rope manufacturer's recommendations for proof load testing provided that it is within the above-specified proof load range, including (c) of this subsection.	
• Hand tucked slings, if proof load tested.	To at least one, but not more than one and one-quarter, times the single-leg vertical hitch rated load.

(d) The proof load test for components (fittings) attached to single legs must meet the requirements in (c) of this subsection;

(e) Proof load testing for master links must be in accordance with Table 9.

Table 9
Proof Load Test for Master Links on Wire Rope Slings

• Master links for two-leg bridle slings.	To at least four times the single-leg vertical hitch rated load.
• Master links for three-leg bridle slings.	To at least six times the single-leg vertical hitch rated load.
• Master links for four-leg bridle slings.	To at least eight times the single-leg vertical hitch rated load.

(7) Rated load. The term "rated capacity" is commonly used to describe rated load.

Note: Rated loads are based on the following factors:
• Strength of sling material;
• Design factor;
• Type of hitch;
• Angle of loading (see Figure 7, Angle of Loading);
• Diameter of curvature over which the sling is used (D/*d*) (see Figure 8, D/*d* ratio);
• Fabrication efficiency.

(a) Wire rope slings must be used within the rated loads shown in Tables 7 through 15 in ASME B30.9-2010. For angles that are not shown in these tables, either use the rated load for the next lower angle or have a qualified person calculate the rated load.

(b) Prohibit the use of horizontal sling angles less than thirty degrees unless recommended by the sling manufacturer or a qualified person. See Figure 7.

(c) Rated loads for slings used in a choker hitch must conform to the values shown in the above referenced tables, provided that the angle of choke is one hundred twenty degrees or greater. See Figure 9 and Table 10, Angle of Choke.

(d) Use either Figure 9 and Table 10, the manufacturer, or a qualified person to determine the rated load if the angle of choke in a choker hitch is less than one hundred twenty degrees.

(i) Inspect the entire length of the sling including splices, end attachments, and fittings.

(ii) Remove slings from use if any of the conditions in Table 7 are found.

(iii) Keep a record of the most recent periodic inspection available, including the condition of the sling.

Note: An external code mark on the sling is an acceptable means of recording the inspection as long as the code can be traced back to a record.

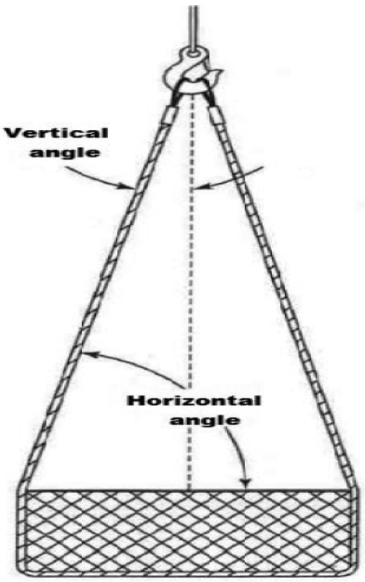


Figure 7
Angle of Loading

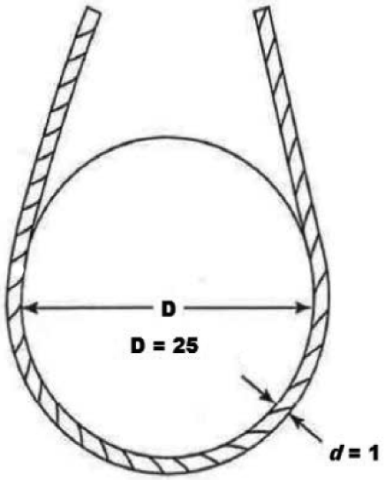


Figure 8
D/*d* Ratio

Note: When D is 25 times the component rope diameter (*d*) the D/*d* ratio is expressed as 25/1.

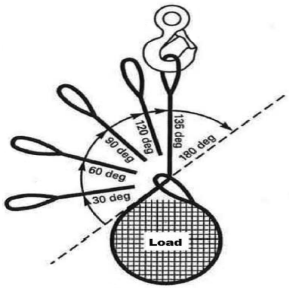


Figure 9
Angle of Choke

Table 10
Angle of Choke

Angle of Choke, deg.	Rated Capacity, %
Over 120	100
90 - 120	87
60 - 89	74
30 - 59	62
0 - 29	49

Note: Percent of sling rated capacity in a choker hitch.

(8) Use of wire rope slings.

(a) Hitch the slings in a way that provides control of the load.

(b) Shorten or adjust slings using only the methods approved by the manufacturer or qualified person.

• Do **not** shorten or lengthen by knotting, twisting, or by wire rope clips.

(c) Keep all parts of the human body from between the sling and the load, crane, or hoist hook.

(d) Prohibit all of the following:

(i) Intentional shock loading;

(ii) Avoid twisting and kinking.

(e) Decrease the rated load of the sling when D/*d* ratios (Figure 8 smaller than twenty-five to one. Consult the sling manufacturer for specific data or refer to the *Wire Rope Sling User's Manual* (wire rope technical board).

(f) Follow Table 11, Use of Wire Rope Slings or Clips, when using any of the identified wire rope slings or clips.

(g) Slings in contact with edges, corners, or protrusions must be protected with a material of sufficient strength, thickness, and construction to prevent damage to the sling. See Figure 3.

Table 11
Use of Wire Rope Slings or Clips

If you are using:	Then:
Single leg slings used with multiple-leg slings.	Make sure the rating shown is not exceeded in any leg of the multiple-leg sling.
Hand tucked slings are used in a single leg vertical lift.	Do not allow the sling or load to rotate.
Slings made with wire rope clips.	Must not be used as a choker hitch.
U-bolt wire rope clips.	Use only U-bolt wire rope clips that are made of drop-forged steel.
	Follow Table 5 for the number and spacing of the clips.
	Apply the U-bolt so the "U" section is in contact with the dead end of the rope (see Figure 10, Installation and Loading).

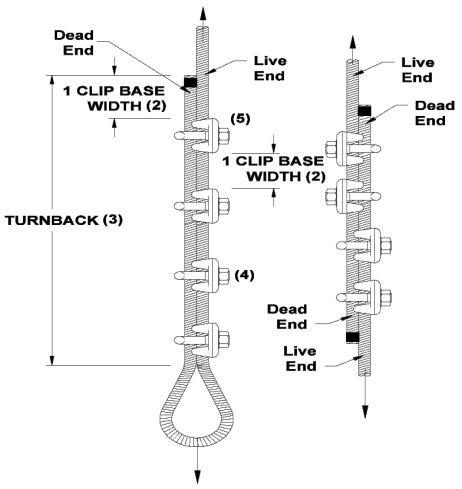


Figure 10

Installation and Loading
Proper Installation Requires
- Correct number of clips for wire rope size
- Correct spacing of clips
- Correct turnback length
- Correct torque on nuts
- Correct orientation of saddle on live end

NEW SECTION

WAC 296-155-33810 Metal mesh slings. (1) Identification information on metal mesh slings. Make sure all slings have legible identification information permanently attached to the sling which includes all of the following information:

(a) Name or trademark of the manufacturer;

(b) Rated loads for the types of hitches used, and the angle they're based on;

(c) Width and gauge;

(d) Number of legs, if more than one;

(e) Individual sling identification (e.g., serial numbers);

(f) Repairing agency, if the sling has ever been repaired.

(2) Inspection.

(a) A qualified person must inspect metal mesh slings before their initial use, according to Table 12, both:

(i) When the sling is new; and

(ii) Whenever a repair, alteration, or modification has been done.

(b) A qualified person must perform a visual inspection for damage, each day or shift the metal mesh sling is used. Immediately remove from service any sling damaged beyond the criteria in Table 12.

(c) A qualified person must perform periodic inspections on metal mesh slings according to Table 12.

(i) Inspect the entire length, including splices, end attachments, and fittings.

(ii) Remove slings from use if any of the conditions in Table 12 are found.

(iii) Keep a record of the most recent periodic inspection available, including the condition of the sling.

Note: An external code mark on the sling is an acceptable means of recording the inspection as long as the code can be traced back to a record.

Table 12
Metal Mesh Sling Inspection Table

Inspect metal mesh slings for conditions such as the following:	Perform inspections:
• Missing or illegible sling identification; • Broken welds along the sling edge; • Broken brazed joints along the sling edge; • Broken wire in any part of the mesh; • Reduction in wire diameter of: – Twenty-five percent due to abrasion; – Fifteen percent due to corrosion; • Lack of flexibility due to the distortion of the mesh; • Distortion of the choker fitting so the depth of the slot is increased by more than ten percent; • Distortion of either end fitting so the width of the eye opening is decreased by more than ten percent; • A fifteen percent reduction of the original cross-sectional area of any point around the hook opening of the end fitting; • Visible distortion of either end fitting out of its plane; • Cracked end fitting; • Slings in which the spirals are locked or without free articulation; • Fittings that are pitted, corroded, cracked, bent, twisted, gouged, or broken;	• At least once a year for slings in normal service; • At least once a quarter for slings in severe service; • As recommended by a qualified person for slings in special service.

Inspect metal mesh slings for conditions such as the following:	Perform inspections:
• Other visible damage that raises doubt about the safety of the sling.	

(3) Repair, alteration, or modifications. Repair metal mesh slings as follows:

(a) Make sure slings are only repaired by the manufacturer or a qualified person;

(b) Straightening of spiral or cross rods, or forcing a spiral into position is prohibited (see Figure 11);

(c) Mark the sling to show the repairing agency;

(d) Replace cracked, broken, bent or damaged metal mesh or components instead of repairing them;

(e) Proof load test repaired slings according to subsection (4) of this section.

(4) Proof load testing.

(a) Make sure the sling manufacturer or a qualified person proof load tests all new and repaired metal mesh slings before initial use;

(b) Use a proof load test that is a minimum of two times the vertical hitch rated load.

(5) Rated load.

Note: Rated loads are based on the following factors:
- Strength of sling material;
- Design factor;
- Type of hitch;
- Angle of loading.

(a) Metal mesh slings must be used within the rated loads shown in Table 7 in ASME B30.9-2010. For angles that are not shown in these tables, use either the rated load for the next lower angle or one calculated by a qualified person.

(b) Rate slings with the load capacity of the lowest rated component of the sling. For example, if fittings are rated lower than the sling material itself, identify the sling with the lower rated capacity.

(c) The use of horizontal sling angles less than thirty degrees is prohibited, unless recommended by the sling manufacturer or a qualified person.

(d) Rated loads for slings used in a choker hitch must conform to the values shown in the above referenced table, provided that the angle of choke is one hundred twenty degrees or greater.

(e) Have the manufacturer or a qualified person determine the rated load if the angle of choke in a choker hitch is less than one hundred twenty degrees.

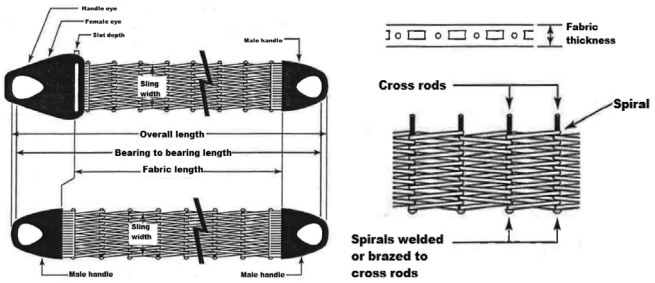


Figure 11
Metal Mesh Sling

(6) Use of metal mesh slings.

(a) Use metal mesh slings safely by doing all of the following:

(i) Shorten or adjust slings using only the methods approved by the manufacturer or a qualified person;

(ii) Sling legs must not be kinked;

(iii) Hitch slings in a way that provides control of the load.

(b) Keep all parts of the human body from between the sling and the load, crane, or hoist hook.

(c) Prohibit the following:

(i) The use of metal mesh slings as bridles on suspended personnel platforms;

(ii) Intentional shock loading;

(iii) Straightening a spiral or cross rod or forcing a spiral into position;

(iv) Avoid twisting and kinking.

Note: Slings in contact with edges, corners, or protrusions should be protected with a material of sufficient strength, thickness, and construction to prevent damage. See Figure 3.

NEW SECTION

WAC 296-155-33815 Synthetic rope slings. (1) Identification. Verify all slings have legible identification information attached to the sling which includes the following information:

(a) Name or trademark of the manufacturer;

(b) Manufacturer's code or stock number;

(c) Type of fiber material;

(d) Rated loads for the types of hitches used, and the angle that the load is based on;

(e) Number of legs, if more than one;

(f) Repairing agency, if the sling has ever been repaired.

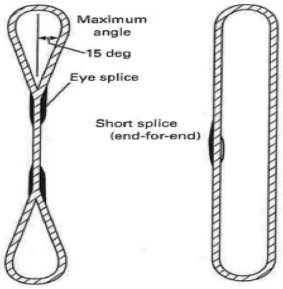


Figure 12
Synthetic Fiber Rope Slings

(2) Inspection.

(a) A qualified person must inspect synthetic fiber rope slings before their initial use, according to Table 13, both:

(i) When the sling is new; and

(ii) Whenever a repair, alteration, or modification has been done.

(b) A qualified person must perform a visual inspection for damage, each day or shift the synthetic fiber rope sling is used. Immediately remove any sling from service that is damaged beyond the criteria listed in Table 13.

(c) A qualified person must perform periodic inspections on synthetic fiber rope slings, according to Table 13.

(i) Examine each sling and component individually, taking care to expose and examine all surfaces.

(ii) Inspect the entire length including splices, end attachments, and fittings.

(iii) Remove slings from use if any of the conditions in Table 13 are found.

(iv) Keep a record of the most recent periodic inspection available, including the condition of the sling.

Note: An external code mark on the sling is an acceptable means of recording the inspection as long as the code can be traced back to a record.

Table 13
Synthetic Rope Sling Inspection and Removal Criteria

Inspect synthetic rope slings for the following conditions:	Perform inspections:
• Missing or illegible sling identification; • Cuts, gouges, or areas of extensive fiber breakage along the length; • Abraded areas on the rope; • Damage that is estimated to have reduced the effective diameter of the rope by more than ten percent;	• At least once a year for slings in normal service; • At least once a quarter for slings in severe service;
• Uniform fiber breakage along the major part of the length of the rope in the sling such that the entire rope appears covered with fuzz or whiskers; • Inside the rope, fiber breakage, fused or melted fiber (observed by prying or twisting to open the strands) involving damage estimated at ten percent of the fiber in any strand or the rope as a whole; • Discoloration, brittle fibers, and hard or stiff areas that may indicate chemical, ultraviolet or heat damage; • Dirt and grit in the interior of the rope structure that is deemed excessive; • Foreign matter that has permeated the rope, making it difficult to handle and attracting and holding grit; • Kinks or distortion in the rope structure, particularly if caused by forcibly pulling on loops (known as hockles); • Melted, hard, or charred areas that affect more than ten percent of the diameter of the rope or affect several adjacent strands along the length that affect more than ten percent of strand diameters; • Poor condition of thimbles or other components manifested by corrosion, cracks, distortion, sharp edges, or localized wear;	• As recommended by a qualified person for slings in special service.

Inspect synthetic rope slings for the following conditions:	Perform inspections:
• Hooks that have any of the following conditions: – Any visibly apparent bend or twist from the plane of the unbent hook; – Any distortion causing an increase in throat opening five percent, not to exceed one-quarter inch, or as recommended by the manufacturer; – Wear exceeding ten percent, of the original section dimension of the hook or its load pin, or as recommended by the manufacturer; – Self-locking mechanism that does not lock. • Other visible damage that raises doubt about the safety of the sling.	

(3) Repair, alteration, or modifications. Meet the following requirements when repairing synthetic rope slings:

(a) Synthetic rope slings must only be repaired by the manufacturer or a qualified person;

(b) Mark the sling to show the repairing agency;

(c) Use components that meet the requirements of this part for sling repair;

(d) Do not repair slings by knotting or resplicing existing sling ropes;

(e) Proof load test repaired slings according to the requirements in subsection (4) of this section.

(4) Proof load test. The sling manufacturer or a qualified person must proof load test repaired slings and slings incorporating previously used or welded fittings before initial use, according to Table 14:

Table 14
Synthetic Rope Sling Proof Load Requirements

Type of equipment:	Proof load test:
• Single leg slings; • Multiple leg slings;	To a minimum of two times the single leg vertical hitch rated load.
• Endless slings; • Fittings attached to single legs.	
Master links for two-leg bridle slings.	To a minimum of four times the single leg vertical hitch rated load.
Master links for three-leg bridle slings.	To a minimum of six times the single leg vertical hitch rated load.
Master links for four-leg bridle slings.	To a minimum of eight times the single leg vertical hitch rated load.

(5) Rated load.

Note: Rated loads are based on the following factors:
• Strength of the sling material;
• Design factor;
• Type of hitch (see Figure 13, Hitch Types for Synthetic Rope Slings);
• Angle of loading (see Figure 7, Angle of Loading);
• Diameter of curvature over which the sling is used (see Figure 8, D/*d* Ratio).

(a) Synthetic rope slings must be used within the rated loads shown in Tables 18 and 19 in ASME B30.9-2010. For angles that are not shown in these tables, either use the rated load for the next lower angle or one calculated by a qualified person.

(b) Rate slings with the load capacity of the lowest rated component of the sling. For example, if you use fittings that are rated lower than the sling material itself, identify the sling with the lower-rated capacity.

(c) The use of horizontal sling angles less than thirty degrees is prohibited, unless recommended by the sling manufacturer or a qualified person. (See Figure 7.)

(d) Rated loads for slings used in a choker hitch must conform to the values shown in the above referenced tables, provided that the angle of choke is one hundred twenty degrees or greater.

(e) Use Figure 9, the manufacturer, or a qualified person to determine the rated load if the angle of choke in a choker hitch is less than one hundred twenty degrees.

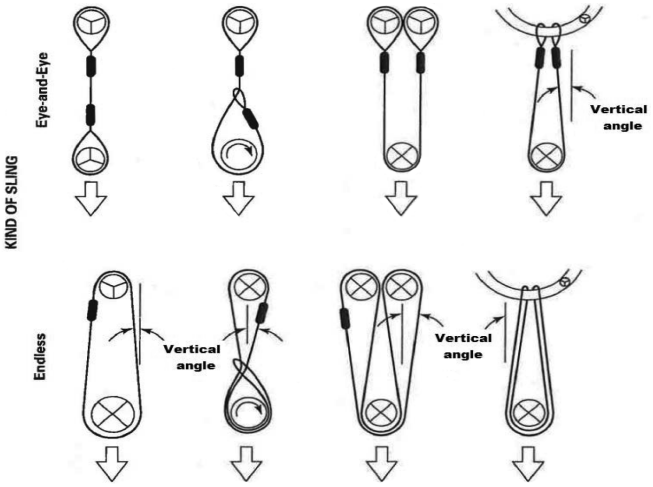


Figure 13
Hitch Types for Synthetic Rope

The symbols below represent load or support in contact with the rope sling. The contact surface diameter divided by the rope diameter is designated D/*d* ratio as described in Figure 9.

Represents a contact surface which must have a diameter of curvature at least double the diameter of the rope from which the sling is made.

Represents a contact surface which must have a diameter of curvature at least eight times the diameter of the rope.

Represents a load in choker hitch and illustrates the rotary force on the load and/or the slippage of the rope in contact with the load. Diameter of curvature of load surface must be at least double the diameter of the rope.

Note: Legs five degrees or less from vertical may be considered vertical. For slings more than five degrees vertical, the actual angle must be used.

(6) Use of synthetic ropes.

(a) Use synthetic rope slings safely by doing all of the following:

(i) Shorten or adjust slings only with methods approved by the manufacturer or qualified person;

(ii) Slings must not be shortened or lengthened by knotting or twisting;

(iii) Hitch slings in a way that provides control of the load;

(iv) Slings in contact with edges, corners, protrusions, or abrasive surfaces must be protected with a material of sufficient strength, thickness, and construction to prevent damage, see Figure 3;

(v) Do not allow the sling or load to rotate when hand - tucked slings are used in a single leg vertical lift application; and

(vi) Keep all parts of the human body from between the sling and the load, crane, or hoist hook.

(b) All of the following is prohibited:

(i) Intentional shock loading; and

(ii) Twisting or kinking.

NEW SECTION

WAC 296-155-33820 Synthetic webbing slings. (1) Identification. Make sure all slings have legible identification information permanently attached to the sling which includes the following information:

(a) Name or trademark of the manufacturer;

(b) Manufacturer's code or stock number;

(c) Rated loads for the types of hitches used, and the angle that the load is based on;

(d) Type of synthetic web material;

(e) Number of legs, if more than one;

(f) Repairing agency, if the sling is ever repaired.

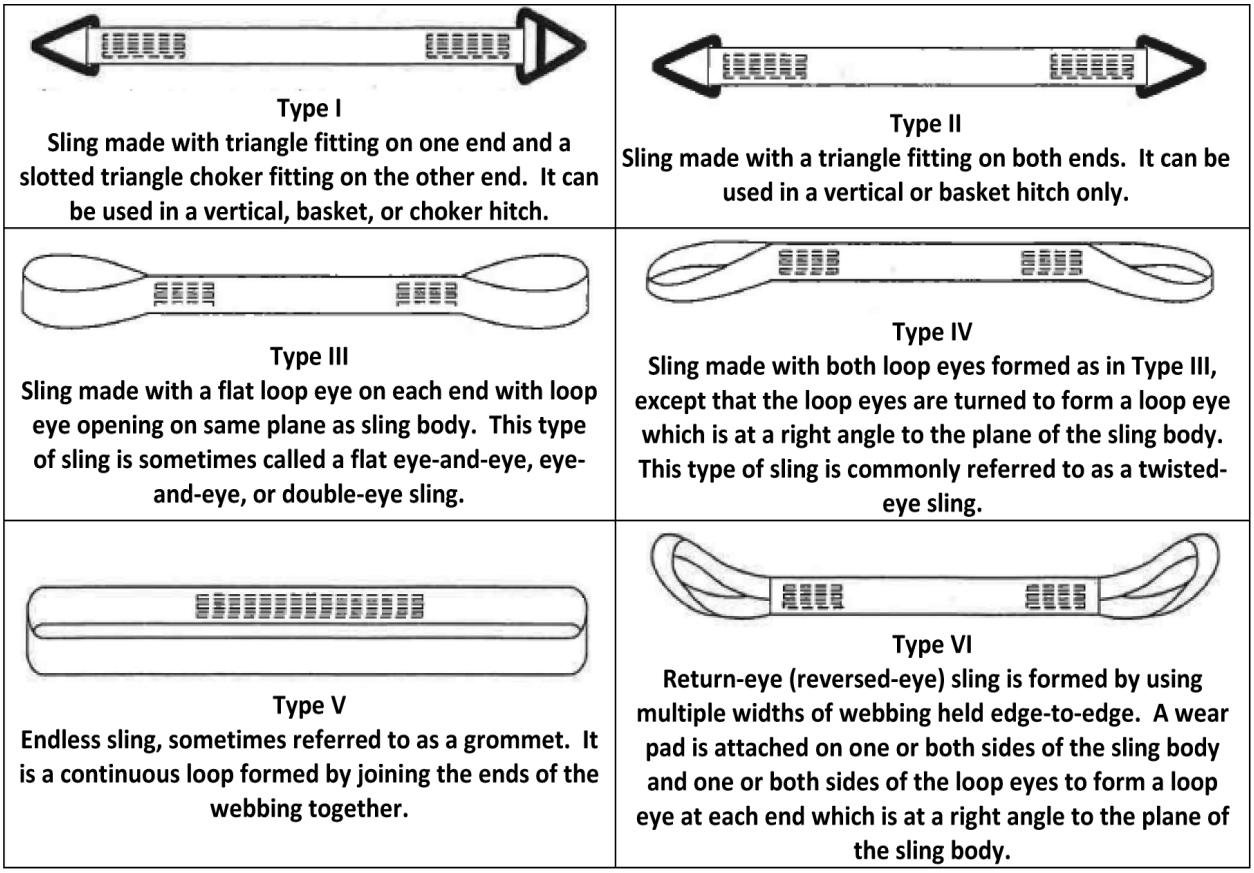


Figure 14
Synthetic Webbing Slings

(2) Inspection.

(a) A qualified person must inspect synthetic webbing slings before their initial use, according to Table 14:

(i) When the sling is new; and

(ii) Whenever a repair, alteration, or modification has been done.

(b) A qualified person must perform a visual inspection for damage, each day or shift the synthetic webbing sling is used. Immediately remove from service any sling that is damaged beyond the criteria listed in Table 15.

(c) A qualified person must perform periodic inspections on synthetic webbing slings, according to Table 15.

(i) Examine each sling and component individually, taking care to expose and examine all surfaces.

(ii) Remove slings from use if any of the conditions in Table 15 are found.

(iii) Keep a written record of the most recent periodic inspection available, including the condition of the sling.

Note: An external code mark on the sling is an acceptable means of recording the inspection as long as the code can be traced back to a record.

Table 15
Synthetic Webbing Sling Inspection

Inspect synthetic webbing slings for the following conditions:	Perform inspections:
• Missing or illegible sling identification; • Acid or caustic burns; • Melting or charring on any part of the sling; • Holes, tears, cuts or snags; • Broken or worn stitching in load bearing splices; • Excessive abrasive wear;	• At least once a year for slings in normal service; • At least once a quarter for slings in severe service; • As recommended by a qualified person for slings in special service.

Inspect synthetic webbing slings for the following conditions:	Perform inspections:
• Knots in any part of the sling; • Discoloration, brittle fibers, and hard or stiff areas that may indicate chemical or ultraviolet/sunlight damage; • Fittings that are pitted, corroded, cracked, bent, twisted, gouged or broken; • Hooks that have any of the following conditions: – Any visibly apparent bend or twist from the plane of the unbent hook; – Any distortion causing an increase in throat opening five percent, not to exceed one-quarter inch, or as recommended by the manufacturer; – Wear exceeding ten percent, of the original section dimension of the hook or its load pin, or as recommended by the manufacturer; – Self-locking mechanism that does not lock. • Other visible damage that causes doubt about the safety of continued use of the sling.	

(3) Repair, alterations, or modifications.

(a) Meet the following requirements when repairing synthetic webbing slings:

(i) Slings are only to be repaired by the manufacturer or a qualified person;

(ii) Temporary repairs are prohibited;

(iii) Mark the sling to show the repairing agency;

(iv) Components used for sling repair must meet the requirements of this part;

(v) Cracked, broken, melted, or otherwise damaged webbing material or fittings other than hooks must not be repaired;

(vi) Load bearing splices must not be repaired;

(b) Proof load test repaired slings according to the requirements in subsection (4) of this section.

(4) Proof load test. The sling manufacturer or a qualified person must proof load test repaired slings and slings that have been altered or modified before initial use according to Table 16:

Table 16
Synthetic Webbing Sling Proof Test Requirements

Type of equipment:	Proof load test:
• Single leg slings; • Multiple leg slings; • Endless slings; • Fittings attached to single legs.	To a minimum of two times the single leg vertical hitch rated load.
Master links for two-leg bridle slings.	To a minimum of four times the single leg vertical hitch rated load.
Master links for three-leg bridle slings.	To a minimum of six times the single leg vertical hitch rated load.
Master links for four-leg bridle slings.	To a minimum of eight times the single leg vertical hitch rated load.

(5) Rated loads.

Note: Rated loads are based on the following factors:
- Strength of the material;
- Design factor;
- Type of hitch;
- Angle of loading (see Figure 7, Angle of Loading);
- Fabrication efficiency;
- Diameter of curvature over which the sling is used.

(a) Synthetic web slings must be used within the rated loads shown in Tables 20 through 24 in ASME B30.9-2010. For angles that are not shown in these tables, use either the rated load for the next lower angle or one calculated by a qualified person.

(b) Rate slings with the load capacity of the lowest rated component of the sling. For example, if you use fittings that are rated lower than the sling material itself, identify the sling with the lower-rated capacity.

(c) The use of horizontal sling angles less than thirty degrees is prohibited, unless recommended by the sling manufacturer or a qualified person. (See Figure 7.)

(d) Use Figure 9, Angle of Choke, the manufacturer, or a qualified person to determine the rated load if the angle of choke in a choker hitch is less than one hundred twenty degrees.

(e) Rated loads for slings used in a choker hitch must conform to the values shown in the above referenced tables, provided that the angle of choke is one hundred twenty degrees or greater. (See Figure 9.)

(6) Use of synthetic webbing slings.

(a) Use synthetic webbing slings safely by meeting all of the following requirements:

(i) Shorten or adjust slings only with methods approved by the manufacturer or qualified person;

(ii) Slings must not be shortened or lengthened by knotting or twisting;

(iii) Hitch slings in a way that provides control of the load;

(iv) Protect slings with material of sufficient strength, thickness, and construction to prevent damage from sharp edges, corners, protrusions, or abrasive surfaces. See Figure 3;

(v) Keep all parts of the human body from between the sling and the load, crane, or hoist hook.

(b) Intentional shock loading is prohibited.

NEW SECTION

WAC 296-155-33825 Synthetic roundslings. (1) Identification. All synthetic roundslings must be marked with the following information:

(a) Name or trademark of the manufacturer;

(b) Manufacturer's code or stock number;

(c) Core material;

(d) Cover material if different from core material;

(e) Rated loads for the types of hitches used, and the angle that the load is based on;

(f) Number of legs, if more than one;

(g) Repairing agency, if the sling is ever repaired.

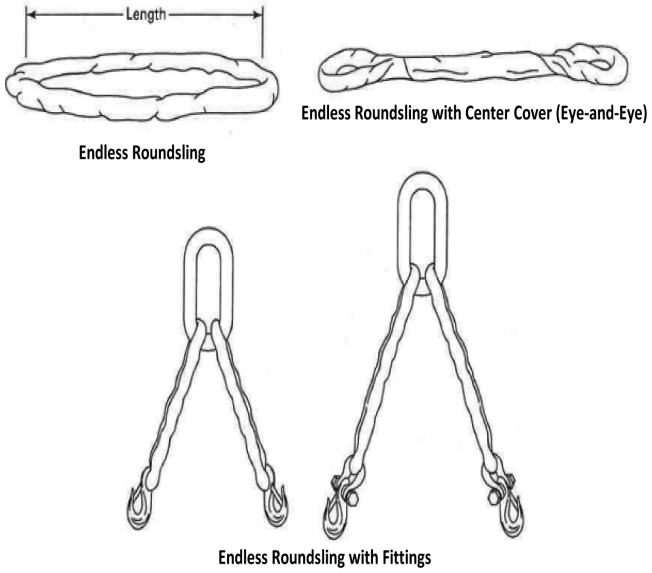


Figure 15
Synthetic Roundslings

(2) Inspection.

(a) A qualified person must inspect synthetic roundslings before their initial use, according to Table 17, both:

(i) When the sling is new; and

(ii) Whenever a repair, alteration, or modification has been done.

(b) A qualified person must perform a visual inspection for damage, each day or shift the synthetic roundsling is used. Immediately remove from service any sling that is damaged beyond the criteria listed in Table 17.

(c) A qualified person must perform periodic inspections on synthetic roundslings, according to Table 17.

(i) Examine each sling and component individually, taking care to expose and examine all surfaces.

(ii) Remove slings from use if any of the conditions in Table 17 are found.

(iii) Keep a written record of the most recent periodic inspection available, including the condition of the sling.

Note: An external code mark on the sling is an acceptable means of recording the inspection as long as the code can be traced back to a record.

Table 17
Synthetic Roundsling Inspection and Removal Criteria

Inspect synthetic roundslings for conditions such as the following:	Perform inspections:
• Missing or illegible sling identification. • Acid or caustic burns. • Evidence of heat damage. • Holes, tears, cuts, abrasive wear or snags that expose the core yarns. • Broken or damaged core yarns. • Weld spatter that exposes core yarns.	
• Roundslings that are knotted.	• At least once a year for slings in normal service.
• Fittings that are pitted, corroded, cracked, bent, twisted, gouged or broken.	• At least once a quarter for slings in severe service.
• Hooks that have any of the following conditions: – Any visibly apparent bend or twist from the plane of the unbent hook. – Any distortion causing an increase in throat opening five percent, not to exceed one-quarter inch, or as recommended by the manufacturer. – Wear exceeding ten percent, of the original section dimension of the hook or its load pin, or as recommended by the manufacturer.	• As recommended by a qualified person for slings in special service.

Inspect synthetic roundslings for conditions such as the following:	Perform inspections:
– Self-locking mechanism that does not lock. • Other visible damage that causes doubt about the safety of continued use of the sling.	

(3) Repair, alterations, or modifications.

(a) Meet the following requirements when repairing synthetic roundslings:

(i) Only the manufacturer or a qualified person can repair slings;

(ii) Mark the sling to show the repairing agency;

(iii) Only use components that meet the requirements of this rule to repair slings;

(iv) Replace cracked, broken, or bent fittings other than hooks; do not repair them.

(b) Both of the following are prohibited:

(i) Temporary repairs of roundslings or fittings; and

(ii) The repair of load bearing yarns.

Proof load test repaired slings according to the requirements in subsection (4) of this section.

(4) Proof load tests. The sling manufacturer or a qualified person must proof load test repaired slings and slings that have been altered or modified before initial use, according to Table 18:

Table 18
Synthetic Roundslings Proof Test Requirements

Type of equipment:	Proof load test:
• Single leg slings. • Multiple leg slings. • Endless slings. • Fittings attached to single legs.	To a minimum of two times the single leg vertical hitch rated load.
Master links for two-leg bridle slings.	To a minimum of four times the single leg vertical hitch rated load.
Master links for three-leg bridle slings.	To a minimum of six times the single leg vertical hitch rated load.
Master links for four-leg bridle slings.	To a minimum of eight times the single leg vertical hitch rated load.

(5) Rated loads.

Note: Rated loads are based on the following factors:
- Strength of the material.
- Design factor.
- Type of hitch.
- Angle of loading. (See Figure 7, Angle of Loading.)
- Diameter of curvature over which the sling is used.

(a) Synthetic roundslings must be used within the rated loads shown in Table 25 in ASME B30.9-2010. For angles that are not shown in these tables, either use the rated load for the next lower angle or one calculated by a qualified person.

(b) Rate slings with the load capacity of the lowest rated component of the sling. For example, if you use fittings that are rated lower than the sling material itself, identify the sling with the lower rated capacity.

(c) Prohibit the use of horizontal sling angles less than thirty degrees unless recommended by the sling manufacturer or a qualified person.

(d) Use Figure 7, Angle of Choke, the manufacturer, or a qualified person to determine the rated load if the angle of choke in a choker hitch is less than one hundred twenty degrees.

(e) Rated loads for slings used in a choker hitch must conform to the values shown in the above referenced Table 10 provided that the angle of choke is one hundred twenty degrees or greater. (See Figure 7.)

(6) Use of synthetic roundslings.

(a) Use methods approved by the manufacturer or qualified person to shorten or adjust slings. Slings must not be shortened or lengthened by knotting or twisting.

(b) Hitch slings in a way that provides control of the load.

(c) Protect slings with material of sufficient strength, thickness, and construction to prevent damage from sharp edges, corners, protrusions, or abrasive surfaces. (See Figure 3.)

(d) Keep all parts of the human body from between the sling and the load, crane, or hoist hook.

(e) Intentional shock loading is prohibited.

NEW SECTION

WAC 296-155-339 Rigging hardware and lifting devices other than slings and rigging hardware.

NEW SECTION

WAC 296-155-33900 General requirements. (1) Inspections.

(a) A qualified person must perform an inspection on all hardware according to Table 19, each day before using. If a daily inspection is not feasible because the hardware is in a semipermanent or inaccessible location, a periodic inspection is allowed instead of daily.

(b) Hardware must be removed from service when it shows any conditions listed in Table 19, or any other hazardous condition.

Table 19
Hardware Inspection

For all hardware, inspect for the following:
• Missing or illegible identification. • For shackles, missing or illegible manufacturer's name or trademark and/or rated load identification.
• Indications of heat damage, including weld spatter or arc strikes.

For all hardware, inspect for the following:
• Excessive pitting or corrosion.
• Load bearing components that are: – Bent. – Twisted. – Distorted. – Stretched. – Elongated. – Cracked. – Broken.
• Excessive nicks or gouges. For riggings blocks, excessive nicks, gouges and wear.
• Ten percent reduction of the original or catalog dimension at any point. For shackles, this includes at any point around the body or pin.
• Excessive thread damage or wear, where applicable.
• Evidence of unauthorized welding or modification.
• Any other conditions that cause doubt as to the safety of continued use.
• On **shackles,** also inspect for incomplete pin engagement.
• On **swivels and swivel hoist rings,** check for lack of ability to freely rotate or pivot.
• On **compression hardware,** also check for: – Unauthorized replacement components. – Insufficient number of wire rope clips. – Improperly tightened wire rope clips. – Damaged wire rope. – Indications of wire rope slippage. – Improper assembly.
• On **swivels,** check for loose or missing nuts, bolts, cotter pins, snap rings, or other fasteners and retaining devices.
• On **blocks** check for: – Loose or missing nuts, bolts, cotter pins, snap rings, or other fasteners and retaining devices. – Misalignment or wobble in sheaves. – Excessive sheave groove corrugation or wear.

(2) Repairs, alterations, or modifications.

(a) Rigging hardware must be repaired, altered or modified according to the hardware manufacturer or a qualified person.

(b) Welding of hardware is prohibited unless authorized by the manufacturer.

(c) Replacement parts must meet or exceed the original rigging hardware manufacturer's specifications.

(3) Hardware use.

(a) Hardware must be selected with the characteristics suitable for the application and environment where it will be used.

(b) The rated load of the hardware must not be exceeded.

(c) At least one of the workers using rigging hardware must meet the requirements of WAC 296-155-33700.

NEW SECTION

WAC 296-155-33905 Shackles. (1) Pins must be connected to the choking eye of the sling when a shackle is used in a choker hitch.

(2) Screw pins must be:

(a) Fully engaged, with the shoulder in contact with the shackle body (see Figure 16, Typical Shackle Components).

(b) Rigged in a way that keeps the pin from unscrewing while in use.

(c) Secured from rotation or loosening if used for long-term installations.

(3) Cotter pins must be kept in good working condition.

(4) If the shackle is side loaded, reduce the rated load, according to the recommendations of the manufacturer or a qualified person (see Figure 17, Side Loading).

Note: See Figure 18, Shackle Types, for examples of types of shackles covered by this rule.

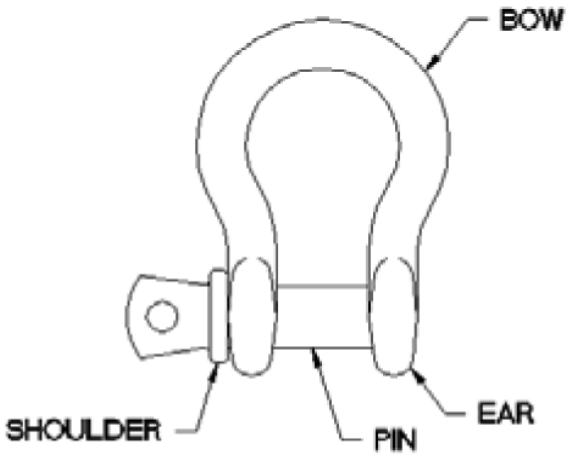


Figure 16
Typical Shackle Components

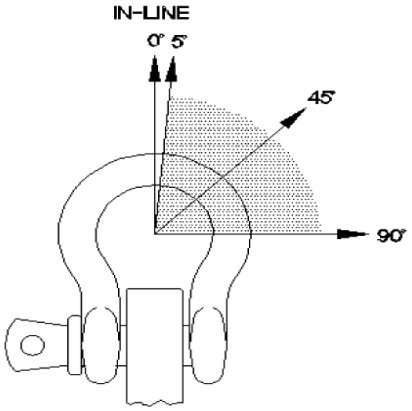


Figure 17
Side Loading

Side Loading Angle, deg.	% Rated Load Reduction
In-line (0) to 5	None
6 to 45	30%
46 to 90	50%
Over 90	Not permitted unless authorized by manufacturer or qualified person

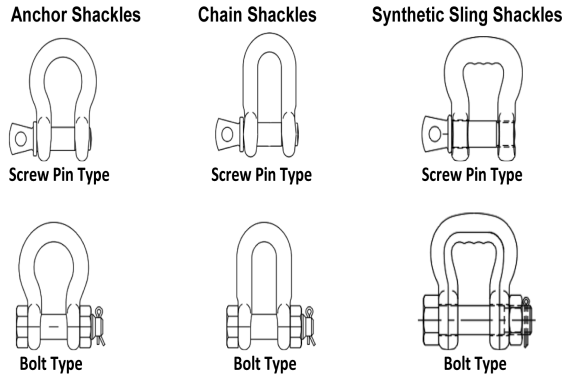


Figure 18
Shackle Types

NEW SECTION

WAC 296-155-33910 Adjustable hardware. (1) Turnbuckles. Follow these rigging practices for turnbuckles:

(a) Locking nuts, if used, must be compatible with the threads of the turnbuckle end. (See Figure 19, Turnbuckle Types.)

(b) For long-term installations, secure turnbuckles in a way that prevents unscrewing.

(c) Turnbuckle end fitting threads must be fully engaged in the body threads.

(d) Components, including pins, bolts, nuts, or cotter pins used with jaw ends, must be in good working condition prior to use.

Notes:
- See Figure 19 for types of turnbuckles covered by this rule.
- Pipe bodies conceal the length of thread engagement. Verify full engagement before loading. (See Figure 19.)

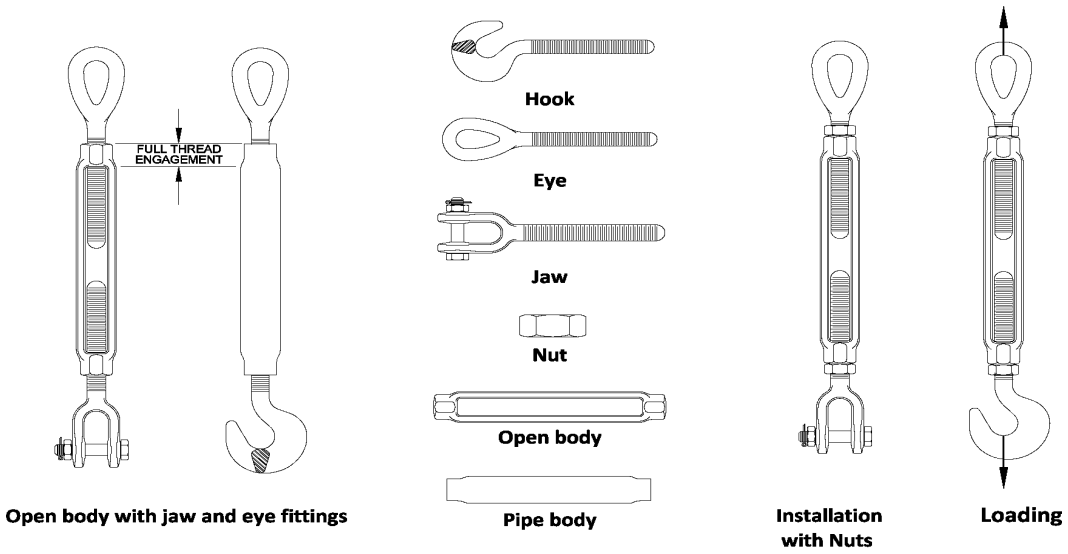


Figure 19
Turnbuckle Types

(2) Eyebolts. Follow these rigging practices for eyebolts:

(a) Eyebolts not shouldered to the load must only be used for in-line loads. (See Figure 20, Eyebolts.)

(b) Only shoulder eyebolts must be used for angular lifting.

(i) The shoulder must be flush and securely tightened against the load.

(ii) The working load limit (WLL) must be reduced as shown in Figure 31.

(iii) For angular lifts, the plane of the eye must be aligned with the direction of loading. If needed, flat washers can be used under the shoulder to position the plane of the eye. (See Figure 20.)

(c) When using eyebolts in a tapped blind hole, the effective thread length must be at least one and one-half times the diameter of the bolt for engagement in steel. (See Figure 20.) For other engagements, or engagements in other materials, contact the eyebolt manufacturer or a qualified person.

(d) When using eyebolts in a tapped through-hole of less than one diameter thickness, a nut must be used under the load, and must be fully engaged and tightened securely against the load. (See Figure 20.)

(e) When eyebolts are used in an untapped through-hole, the nut under the load must be fully engaged. If the eyebolt is not shouldered to the load, a second nut on top of the load should be used if possible. (See Figure 20.)

Note: See Figure 20 for examples of eyebolts covered by this rule.

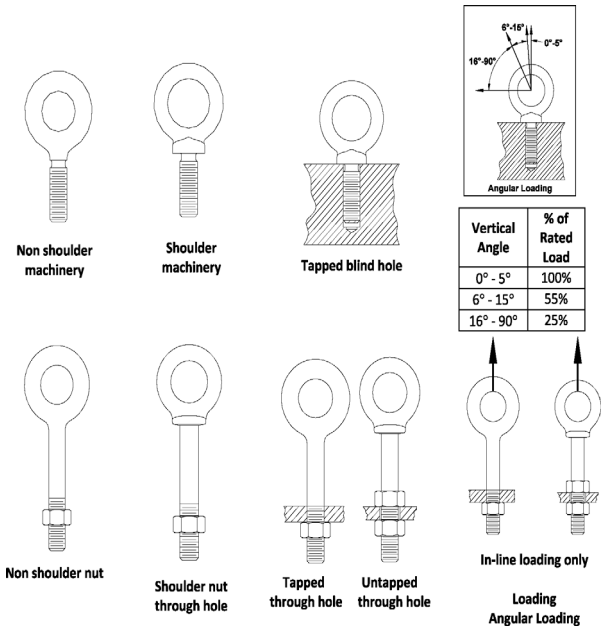


Figure 20
Eyebolts

(3) Eye nuts. Follow these rigging practices for eye nuts (see Figure 21, Eye Nuts):

(a) The threads of eye nuts must be fully engaged;

(b) Eye nuts must only be used for in-line loads;

(c) Components must be in good working condition prior to use.

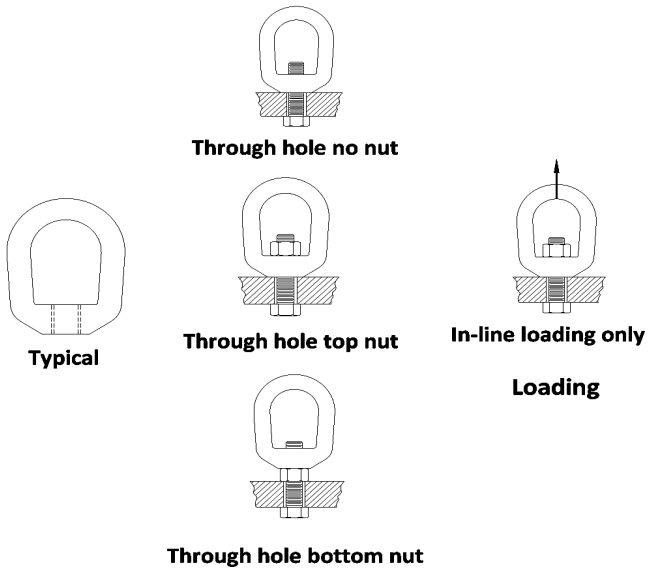


Figure 21
Eye Nuts

(4) Swivel hoist rings. Follow these rigging practices for swivel hoist rings:

(a) The swivel hoist ring working load limit (WLL) must meet or exceed the anticipated angular rigging tension. (See Figure 22, Angle of Loading.)

(b) Swivel hoist rings must be tightened to the torque specifications of the manufacturer.

(c) The swivel hoist ring must be free to rotate and pivot without interference during lifting. (See Figure 23, Swivel Hoist Rings.)

(d) The load applied to the swivel hoist ring must be centered in the bail to prevent side loading.

(e) Any attached lifting component must be narrower than the inside width of the bail to avoid spreading.

(f) When using swivel hoist rings in a threaded-hole, the effective thread length must be one and one-half times the diameter of the bolt for steel. (See Figure 23.) For other thread engagements or engagement in other materials, contact the manufacturer or a qualified person.

(g) When using swivel hoist rings in a through-hole application, a nut and washer must be used. A washer and nut must be in accordance with the manufacturer's recommendations. The nut must be fully engaged. (See Figure 23.)

(h) The bushing flange must fully contact the load surface. (See Figure 23.)

(i) Spacers or washers must not be used between the bushing flange and the mounting surface of the load being lifted.

Note: See Figure 23 for examples of swivel hoist rings covered by this rule.

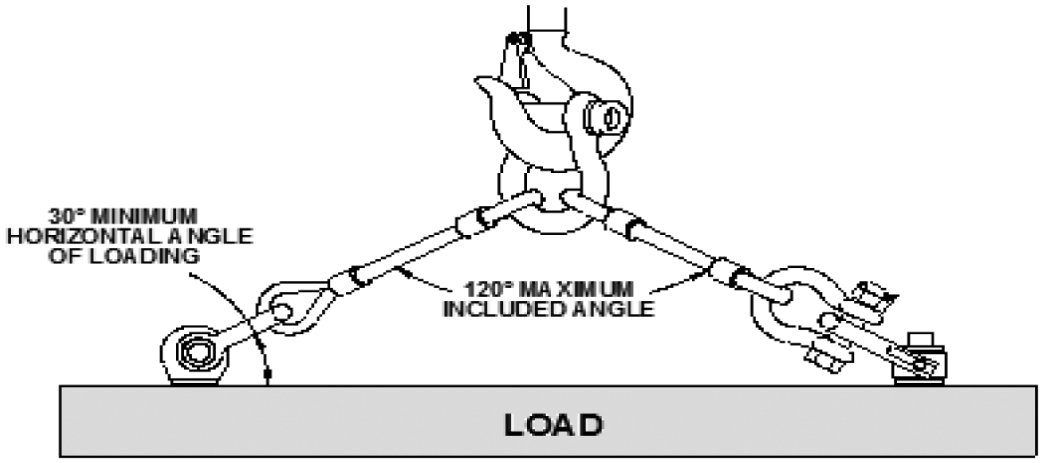


Figure 22
Angle of Loading (Adjustable Hardware)

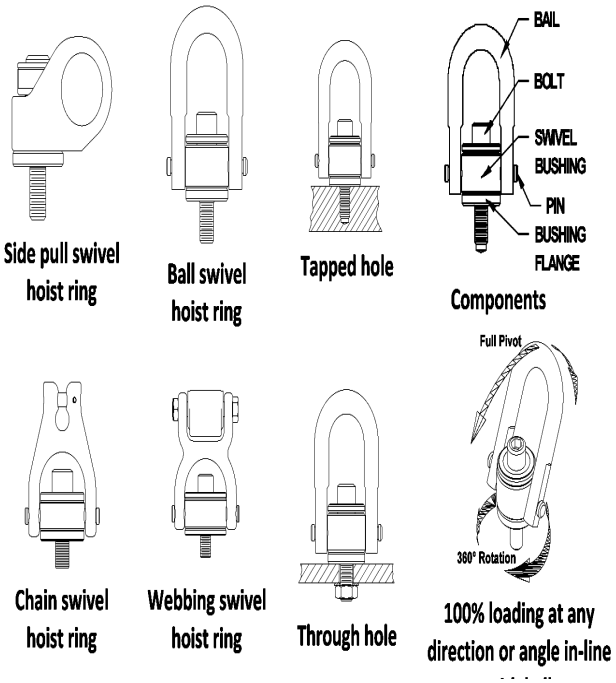


Figure 23
Swivel Hoist Rings

NEW SECTION

WAC 296-155-33915 Compression hardware. (1) Wire rope clips. Follow these assembly requirements for wire rope clips:

(a) Before installing a wire rope clip on plastic coated or plastic impregnated wire rope, the wire rope clip manufacturer, wire rope manufacturer or a qualified person must be consulted.

(b) For U-bolt clips used to create end terminations, the saddle must be placed on the live end of the wire rope, with the U-bolt on the dead end side. (See Figure 24, Wire Rope Clips.)

(c) The assembly must be tested by loading the connection to at least the expected working load. After unloading, retighten the wire rope clips to the torque recommended by the manufacturer or a qualified person.

(d) Follow the manufacturer's recommendations for the minimum number of clips, spacing and turn-back measurements, and to the recommended torque values. In the absence of the manufacturer's recommendations follow Table 5.

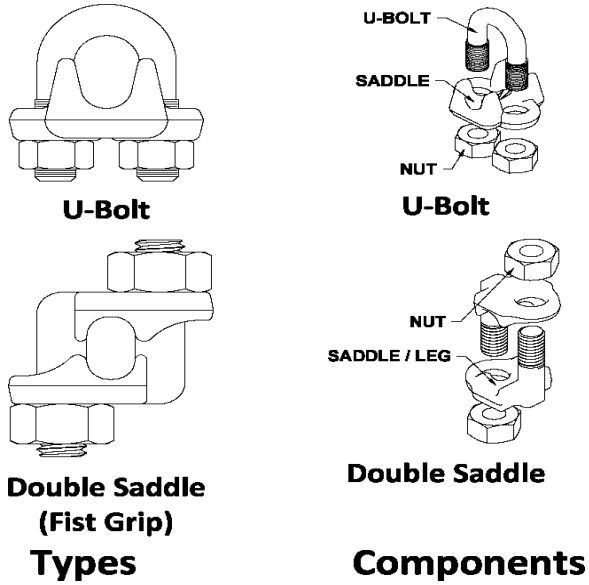


Figure 24
Wire Rope Clips

(2) Wedge sockets. Follow these assembly requirements for wedge sockets:

(a) Wedge sockets must be assembled as recommended by the manufacturer or a qualified person.

(b) Before installing a wedge socket on plastic coated or plastic impregnated wire rope the wedge socket manufac-

turer, wire rope manufacturer or a qualified person must be consulted.

(c) The assembler must match the proper wedge with the socket for the wire rope to be installed. Wedges must not be interchanged between different manufacturers' sockets or models.

(d) The live end of the wire rope in the wedge socket cavity must be in alignment with the socket's pin. (See Figure 25, Wedge Sockets.)

(e) The length of the dead end tail of the wire rope must be as required by the manufacturer or a qualified person.

(f) The tail of the dead end of the wire rope extending beyond the wedge socket must be secured as recommended by the wedge socket manufacturer or a qualified person.

(g) The dead end of the wire rope must not be secured to the live end of the wire rope in a way that restricts the movement of the live end. (See Figure 25.)

(h) After assembly the connection must be loaded to fully seat the wedge before use.

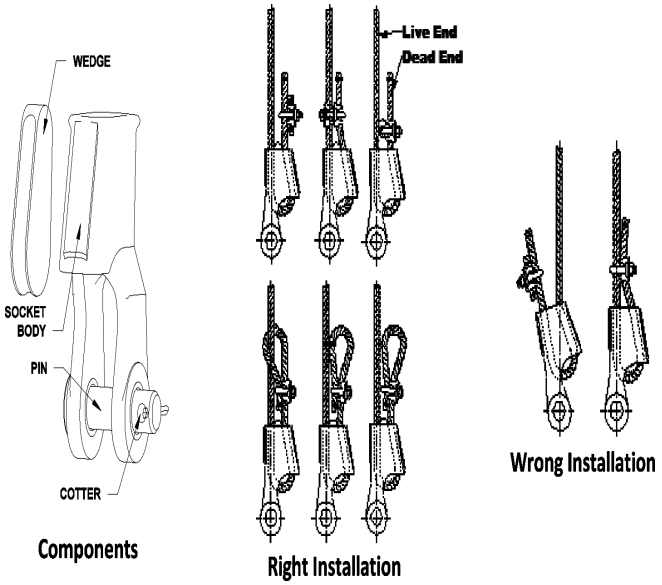


Figure 25
Wedge Sockets

NEW SECTION

WAC 296-155-33920 Links, rings, and swivels. (1) Follow these rigging practices for links and rings:

(a) The link or ring must be of the proper shape and size to make sure it seats properly in the hook or lifting device.

(b) Multiple slings or rigging hardware gathered in a link or ring must not exceed a one hundred twenty degree included angle. (See Figure 22, Angle of Loading.)

Note: See Figure 26, Links and Rings, for examples of links and rings covered by this rule.

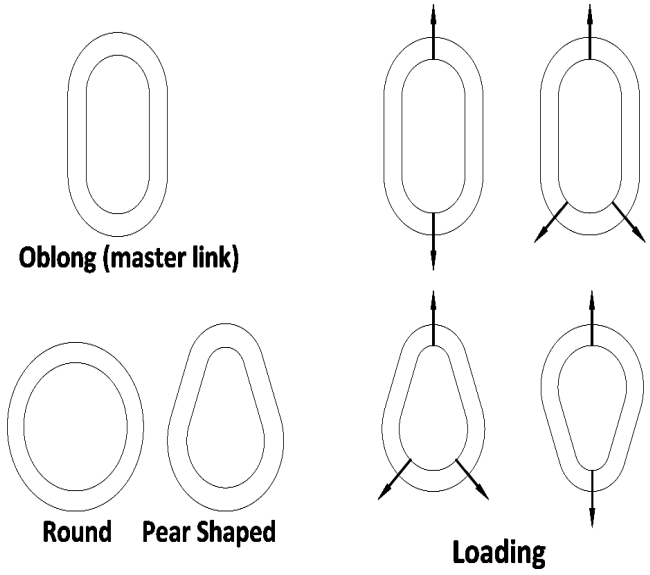


Figure 26
Links and Rings

(2) Follow these rigging practices for swivels:

(a) Swivels must only be used on in-line loads. (See Figure 27, Swivels.)

Note: Swivels are positioning hardware, and are not intended to be rotated under load.

(b) Swivels must be of the proper shape and size to make sure it seats correctly in the hook or lifting device.

(c) All swivel components must be kept in good working condition.

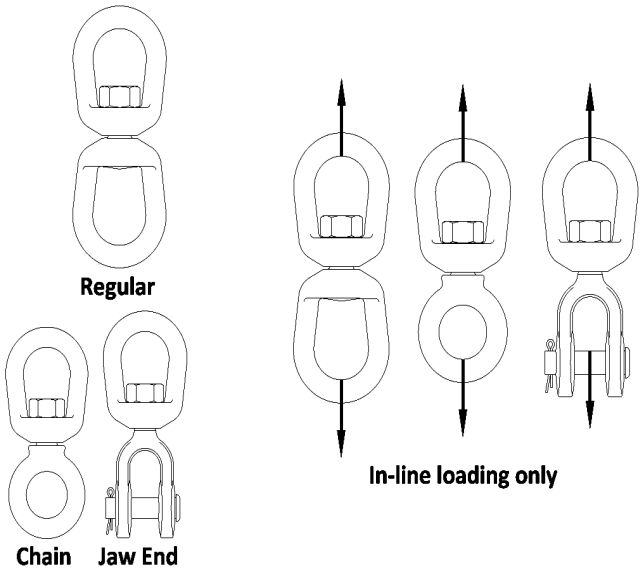


Figure 27
Swivels

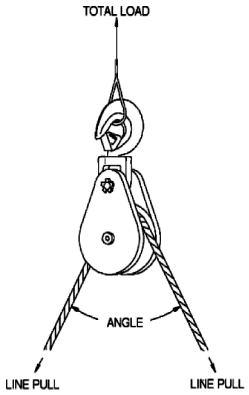
NEW SECTION

WAC 296-155-33925 Rigging blocks. (1) The rigging block components must be fully engaged, with all fasteners and retaining devices in place and in good working order before use.

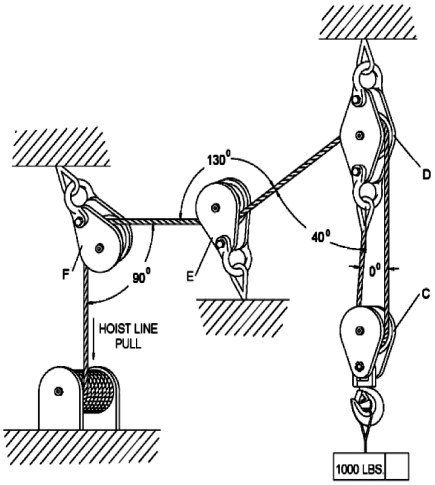
(2) The rope must be in the sheave groove when the rigging block begins to take load.

(3) The load line multiplied by the block load factor must not exceed the rated load of the rigging block. (See Figure 28, Block Load Factor Multipliers.)

(4) Load line fittings must not contact the rigging block sheave(s).



Tackle Block Angles



Utility Block Angles

Angle	Factor	Angle	Factor
0°	2.00	100°	1.29
10°	1.99	110°	1.15
20°	1.97	120°	1.00
30°	1.93	130°	.84
40°	1.87	135°	.76
45°	1.84	140°	.68
50°	1.81	150°	.52
60°	1.73	160°	.35
70°	1.64	170°	.17
80°	1.53	180°	.00
90°	1.41	—	—

Block Load = Line Pull X Multiplier Factor

Example: Load = 1,000 lb

Line Pull: 1,000 lb ÷ 2 = 500 lb

Load Block "C" = 500 lb x 2 = 1,000 lb

(line pull x factor for 0 deg. angle)

Load Block "D" = 500 lb x 1.87 + 500 lb = 1,435 lb

(line pull x factor for 40 deg. angle + dead-end load)

Load Block "E" = 500 lb x 0.84 = 420 lb

(line pull x factor for 130 deg. angle)

Load Block "F" = 500 lb x 1.41 = 705 lb

(line pull x factor for 90 deg. angle)

Figure 28

Block Load Factor Multipliers

NEW SECTION

WAC 296-155-340 Lifting devices other than slings and rigging hardware.

NEW SECTION

WAC 296-155-34005 Structural and mechanical lifters. (1) Structural and mechanical lifting devices must be constructed in accordance with ASME B30.20-2010, Below-the-Hook Lifting Devices.

(2) The rated load of the lifting device must be legibly marked on the main structure or on a tag attached to it where it is visible. If the lifting device is made up of several lifters, each detachable from the group, these lifters must also be marked with their individual rated loads.

(3) All structural and mechanical lifting devices must be marked with the following information:

(a) Manufacturer's name and address;

(b) Serial number;

(c) Lifter weight, if over one hundred pounds (45 kg);

(d) Rated load as required in subsection (2) of this section;

(e) Name and address of repairer or modifier, when the lifting device has been repaired or modified.

(4) Installation.

(a) Structural and mechanical lifters must be assembled and installed according to manufacturer's instructions.

(b) The installer must check for correct rotation of all motors.

(5) Inspection.

(a) A qualified person must inspect all new, altered, repaired, or modified lifting devices according to Tables 20 and 21. The inspection of altered, repaired or modified lifting devices can be limited to the parts affected, if a qualified person determines that is all that is needed.

(b) The operator must inspect the lifting device before and during every lift for any indication of damage. Check the following items:

(i) Surface of the load for debris;

(ii) Condition and operation of the controls; and

(iii) Condition and operation of the indicators and meters when installed.

(c) Lifting devices must be inspected, by the operator or another competent person, according to Table 20.

(i) If any damage is found, have a qualified person determine whether there is a hazard.

(ii) Hazardous conditions must be corrected before continuing use.

Table 20
Structural and Mechanical Lifter Frequent Inspection

Inspect for:	How often:
Structural members for: • Deformation. • Cracks. • Excessive wear on any part of the lifter.	• Normal service - Monthly. • Heavy service - Weekly to monthly. • Severe service - Daily to weekly. • Special or infrequent service - As recommended by a qualified person before and after each occurrence. • Before use, when any lifter has been idle for at least one month.
The device for: • Loose or missing: - Guards. - Fasteners. - Covers. - Stops. - Nameplates.	
• All functional operating mechanisms for maladjustments interfering with operation.	
• Automatic hold-and-release mechanisms for maladjustments interfering with operation.	

Note: • Normal service means service that involves operation with various weights within the rated load limit, averaging less than sixty-five percent of rated load limits.
• Heavy service means service that involves operation within the rated load limit, that exceeds the limits of normal service.
• Severe service means service that involves normal or heavy service with abnormal operating conditions.

(d) A qualified person must perform a periodic inspection on structural and mechanical lifters according to Table 21. Include the items in Table 20 of this section.

(i) Hazardous conditions must be corrected before continuing use.

(ii) Dated inspection reports must be kept of the most recent periodic inspection.

Table 21
Structural and Mechanical Lifting Device Periodic Inspection

Inspect for:	How often:
Loose bolts or fasteners.	• Normal service for equipment in place - Yearly.
Cracked or worn gear, pulleys, sheaves, sprockets, bearings, chains, and belts.	• Heavy service - Semi-annually.
Excessive wear of friction pads, linkages, and other mechanical parts.	• Severe service - Quarterly.
Excessive wear at hoist hooking points and load support clevises or pins.	• Special or infrequent service - As recommended by a qualified person before the first such occurrence and as directed by the qualified person for any subsequent occurrences.

Note: • Normal service means service that involves operation with various weights within the rated load limit, averaging less than sixty-five percent of rated load limits.
• Heavy service means service that involves operation within the rated load limit, that exceeds the limits of normal service.
• Severe service means service that involves normal or heavy service with abnormal operating conditions.

(6) Operational tests.

(a) A qualified person must perform an operational test on new, altered, repaired, or modified lifters before use. The qualified person can limit the testing of altered, repaired or modified lifters to the parts affected.

(b) The following items must be tested:

(i) Lifters with moving parts must be tested to determine that the lifter operates according to the manufacturer's instructions.

(ii) Lifters with manually operated or automatic latches must be tested to determine that the latch operates according to manufacturer's instructions.

(iii) All indicator lights, gages, horns, bells, alarms, pointers, and other warning devices must be tested.

(c) Dated reports of all operational tests must be kept on file.

(7) Repair.

(a) Structural and mechanical lifting devices must be repaired as follows:

(i) Adjustments and testing must be done only by a qualified person;

(ii) Replacement parts used must be at least equal to the original manufacturer's specifications;

(iii) The device must be inspected according to subsection (5) of this section before returning to service.

(b) The following precautions must be taken before repairs on a lifting device are started:

(i) Disconnect, lock out and tag all sources of power "Out of Service," if applicable;

(ii) Tag the lifting device removed from service for repair "Out of Service."

(8) Lifting devices must be operated only by qualified personnel.

(9) Operators must do the following:

(a) Test all controls before use, each shift;

(b) Consult a competent person before handling the load whenever there is any doubt as to safety;

(c) Respond only to instructions from competent persons, except for stop signals. The operator must obey a stop order at all times, no matter who gives it;

(d) Do not load the lifting device in excess of its rated load or with any load that it is not specifically designed for;

(e) Apply the lifter to the load according to the instruction manual;

(f) Check that:

(i) Lifter ropes or chains are not kinked.

(ii) Multiple part lines are not twisted around each other.

(g) Bring the lifter over the load in a way that minimizes swinging;

(h) Keep the load or lifter from contacting any obstruction;

(i) Set down any attached load and store the lifting device before leaving it;

(j) Check that all personnel are clear of the load;

(k) Using the lifter for side pulls or sliding the load is prohibited, unless specifically authorized by a qualified person;

(l) Riding on loads or the lifting device is prohibited.

NEW SECTION

WAC 296-155-34010 Vacuum lifters. (1) Vacuum lifting devices must be constructed in accordance with ASME B30.20-2010, Below-the-Hook Lifting Devices.

(2) Rated load.

(a) The rated load of each lifter and each pad must be legibly marked on the main structure or on a tag attached to it where it is visible. The marking must refer to the instruction manual for information about decreases in rating due to loads:

(i) Rigidity;

(ii) Strength;

(iii) Overhang;

(iv) Surface condition;

(v) Angle of load;

(vi) Temperature;

(vii) Number of pads;

(viii) Elevation and vacuum level.

(b) If the vacuum lifting device has shut-off valves on individual pads or groups of pads, the rated load of each pad must also be marked.

(3) The vacuum lifter must be clearly marked on the main structure with all of the following:

(a) Manufacturer's name and address;

(b) Model number;

(c) Serial number;

(d) Lifter weight;

(e) Electrical power requirements, if applicable;

(f) Pressure and volume of compressed air required, if applicable;

(g) Rated load, as required in subsection (2) of this section;

(h) If repaired or modified, the name, address, and lifter identification of repairer or modifier.

(4) Installation.

(a) Vacuum lifters must be assembled and installed according to manufacturer's instructions.

(b) The installer must check:

(i) That the power supply is the same as what is shown on the nameplate.

(ii) For correct rotation of all motors.

(c) Connect the electrical power supply to the vacuum lifter to either:

(i) The line side of the crane disconnect; or

(ii) An independent circuit.

(5) Inspection.

(a) A qualified person must inspect all new, altered, repaired, or modified vacuum lifters. A qualified person can limit the inspection of altered, repaired or modified lifters to the affected parts.

(b) The operator must inspect the lifter before and during every lift for any indication of damage, including all of the following:

(i) Surface of the load for debris;

(ii) Seal of the vacuum pad for debris;

(iii) Condition and operation of the controls;

(iv) Condition and operation of the indicators, meters and pumps when installed.

(c) Lifters must be inspected, by the operator or another competent person, according to Table 22.

(d) A qualified person must determine whether signs of damage indicate a hazard.

(e) Hazardous conditions must be corrected before continuing use.

(f) A qualified person must perform a periodic inspection of vacuum lifters according to Table 23. Include the items in Table 22 of this section.

(g) Dated inspection records must be kept on all critical items such as supporting structure, motors, controls, and other auxiliary components.

(h) Hazardous conditions must be corrected before continuing use.

Table 22
Vacuum Lifter Frequent Inspection

Inspect for:	How often:
Structural members for: • Deformation. • Cracks.	• Normal service - Monthly. • Heavy service - Weekly to monthly. • Severe service - Daily to weekly.

Inspect for:	How often:
• Excessive wear.	• Special or infrequent service - As recommended by a qualified person before and after each occurrence.
The vacuum generator for output.	
The vacuum pad seal rings for: • Cuts. • Tears. • Excessive wear. • Foreign particles.	• Before using, when a lifting device has been idle for more than one month.
Vacuum lines and connections for: • Leakage. • Cuts. • Kinks. • Collapsed areas of hoses.	
The vacuum reservoir for: • Leaks. • Visible damage.	
The entire vacuum system including indicator lights, gages, horns, bells, pointers or other warning devices, and vacuum level indicators: • Attach a nonporous, clean surface to the vacuum pad or pads. • Stop the vacuum source. • Check that the vacuum level in the system does not decrease by more than the manufacturer's specified rate.	

Table 23
Vacuum Lifting Device Periodic Inspection

Inspect for:	How often:
External evidence of: • Looseness.	• Normal service for equipment in place - Yearly.
• Wear. • Deformation. • Cracking. • Corrosion.	• Heavy service - Semi-annually. • Severe service - Quarterly. • Special or infrequent service - As recommended by a qualified person before the first such occurrence and as directed by the qualified person for any subsequent occurrences.
External evidence of damage to: • Supporting structure. • Motors. • Controls. • Other auxiliary components.	
Clear warning labels.	

Note: • Normal service means service that involves operation with various weights within the rated load limit, averaging less than sixty-five percent of rated load limits.
• Heavy service means service that involves operation within the rated load limit, that exceeds the limits of normal service.
• Severe service means service that involves normal or heavy service with abnormal operating conditions.

(6) Operational tests.

(a) A qualified person must perform an operational test on new, altered, repaired, or modified vacuum lifters before use. The qualified person can limit the testing of altered, repaired or modified lifters to the parts affected.

(b) The following items must be tested:

(i) Moving parts;

(ii) Latches;

(iii) Stops;

(iv) Limit switches;

(v) Control devices;

(vi) Vacuum lines;

(vii) The seals and connections must be tested for leaks by attaching a smooth nonporous clean material to the vacuum pad or pads and then stopping the vacuum source. The vacuum level in the system must not decrease more than the manufacturer's specified rate.

(c) Dated reports of all operations tests must be kept on file.

(7) Load tests.

(a) Prior to initial use, all new, altered, repaired, or modified vacuum lifting devices must be load tested and inspected by a qualified person. The qualified person can limit the test to the areas affected by the alteration, repair or modification.

(b) Test loads must not be more than one hundred twenty-five percent of the rated load of the system, unless

otherwise recommended by the manufacturer or a qualified person.

(c) Written reports must be kept confirming the load rating of the vacuum lifting device.

(d) The load test must consist of one of the following procedures:

(i) Actual load test:

(A) Attach pads to the designated test load.

(B) Raise the test load a small distance to make sure the load is supported by the vacuum-lifting device.

(C) Hold the load for two minutes.

(D) Lower the load for release.

(ii) Simulated load test. Using a test fixture, apply forces to all load bearing components either individually or in assemblies equivalent to the forces encountered by the components if they were supporting a load that was one hundred twenty-five percent of the rated load.

(e) After the test, the vacuum lifting device must be visually inspected. Any condition that constitutes a hazard must be corrected before the lifting device is placed in service. If the correction affects the structure, then the lifter must be retested.

(8) Repair.

(a) Repair vacuum lifting devices as follows:

(i) Adjustments and testing must be done only by a qualified person;

(ii) Use replacement parts that are at least equal to the original manufacturer's specification;

(iii) The lifting device must be inspected before returning to service as required in subsection (5) of this section.

(b) Take the following precautions before repairs on a lifting device are started:

(i) Move the vacuum-lifting device to an area where it will cause the least interference with other operations;

(ii) Disconnect, lock out and tag all sources of power "Out of Service," if applicable;

(iii) Tag the lifting device removed from service for repair "Out of Service."

(9) Lifting devices must be operated only by qualified personnel.

(10) Operators must do the following:

(a) Test all controls before use during a shift;

(b) Consult a competent person before handling the load whenever safety is in doubt;

(c) Respond only to instructions from competent persons, except for stop orders. The operator must obey a stop order at all times, no matter who gives it;

(d) Do not load the lifter in excess of its rated load or with any load that it isn't specifically designed for;

(e) Apply the lifter to the load according to the manufacturer's instructions;

(f) Check that:

(i) Ropes or chains are not kinked.

(ii) Multiple part lines are not twisted around each other.

(iii) The pad contact surface is clean and free of loose particles.

(g) Check that vacuum lines are not:

(i) Kinked or twisted.

(ii) Wrapped around or looped over parts of the lifting device that will move during the lift.

(h) Bring the lifter over the load in a way that minimizes swinging;

(i) Lift the load a few inches to make sure that the lifting device was correctly applied;

(j) Keep the load or lifter from contacting any obstruction;

(k) Do the following if power goes off while making a lift:

(i) Warn all people in the area;

(ii) Set the load down if possible.

(l) Set down any attached load and store the lifting device before leaving it;

(m) Check that all personnel are clear of the load;

(n) Using the lifter for side pulls or sliding the load is prohibited, unless specifically authorized by a qualified person;

(o) Riding on the load or the lifter is prohibited.

NEW SECTION

WAC 296-155-34015 Close proximity lifting magnets. (1) Close proximity lifting magnets must be constructed in accordance with ASME B30.20-2010, Below-the-Hook Lifting Devices.

(2) Rated load.

(a) General application magnets must have the rated load (capacity) marked either on the lifting magnet or on a tag attached to it. The marking must refer to the instruction manual for information about decreases in rating due to the loads.

(i) Surface condition.

(ii) Thickness.

(iii) Percentage of contact with the magnet.

(iv) Temperature.

(v) Metallurgical composition.

(vi) Deflection.

(b) Specified application magnets must have the rated load (capacity) either on the lifting magnet or on a tag attached to it, referring to the specific loads for which the capacity applies.

(3) Identification. All close proximity lifting magnets must be marked with the following information:

(a) Manufacturer's name and address;

(b) Model and lifting magnet unit identification;

(c) Weight of lifting magnet;

(d) Rated load, as required in subsection (2) of this section;

(e) Duty cycle, if applicable;

(f) Cold current (amps) at sixty-eight degrees Fahrenheit (twenty degrees Celsius), if applicable; and

(g) Voltage of primary power supply or battery, if applicable.

(h) If repaired or modified, name and address of repairer or modifier and (a) through (g) of this subsection if changed.

(4) Lifting magnets must be installed according to manufacturer's instructions.

(5) Inspection.

(a) A qualified person must inspect all new, altered, repaired, or modified lifting magnets according to Tables 24 and 25. The inspection of altered, repaired or modified lifting

magnets can be limited to the parts affected, if a qualified person determines that is all that is needed.

(b) The operator must inspect the lifting magnet before and during every lift for any indication of damage. Check all of the following items:

(i) Lifting magnet face and surface of the load for foreign materials and smoothness;

(ii) Condition and operation of the:

(A) Control handle of a manually controlled permanent magnet;

(B) Indicators and meters when installed.

(c) Lifting magnets must be inspected, by the operator or another competent person, according to Table 24.

(d) A qualified person must determine whether signs of damage indicate a hazard.

(e) Hazardous conditions must be corrected before continuing use.

Table 24
Close Proximity Lifting Magnet Frequent Inspection

Inspect for:	How often:
Structural and suspension members for: • Deformation. • Cracks. • Excessive wear on any part of the lifting magnet.	• Normal service - Monthly. • Heavy service - Weekly to monthly. • Severe service - Daily to weekly. • Special or infrequent service - As recommended by a qualified person before and after each occurrence.
The lifting magnet face for: • Foreign materials. • Smoothness.	
Condition of lifting bail or sling suspension.	• Before using, when a lifting magnet has been idle for more than one month.
Condition and operation of control handle.	
Condition and operation of indicators and meters, if applicable.	
Electrical conductors, if applicable, that are visible without disassembly for: • Loose connections. • Continuity. • Corrosion.	
• Damage to insulation.	
Battery operated electromagnets for: • Proper level of battery electrolyte. • Corrosion of battery posts or connectors.	
Cracked housings, welds, and loose bolts.	
Legible labels and marking.	

Note: • Normal service means service that involves operation with various weights within the rated load limit, averaging less than sixty-five percent of rated load limits.
• Heavy service means service that involves operation within the rated load limit, that exceeds the limits of normal service.
• Severe service means service that involves normal or heavy service with abnormal operating conditions.

(f) A qualified person must perform periodic inspections of close proximity lifting magnets according to Table 25. Include the items in Table 24 of this section.

(g) Dated inspection records must be kept on all critical items such as structural and suspension members, lifting magnet face, lifting bail, control handle, indicators and meters.

(h) Hazardous conditions must be corrected before continuing use.

Table 25
Close Proximity Lifting Magnet Periodic Inspection

Inspect for:	How often:
Members, fasteners, locks, switches, warning labels, and lifting parts for: • Deformation. • Wear.	• Normal service for equipment in place - Yearly.
• Corrosion.	• Heavy service, unless external conditions indicate that disassembly should be done to permit detailed inspection - Quarterly.
All electrical components, including controllers, battery, external power supply, power disconnects, meters, indicators, and alarms for: • Proper operation.	• Severe service - Monthly.

Inspect for:	How often:
• Condition.	• Special or infrequent service - As recommended by a qualified person before the first occurrence and as directed by the qualified person for any subsequent occurrences.
Lifting magnet coil must be tested for: • Ohmic and ground readings compared to manufacturer's standards.	

Note: • Normal service means service that involves operation with various weights within the rated load limit, averaging less than sixty-five percent of rated load limits.
• Heavy service means service that involves operation within the rated load limit, that exceeds the limits of normal service.
• Severe service means service that involves normal or heavy service with abnormal operating conditions.

(6) Operational tests.

(a) All new, altered, repaired or modified lifting magnets must be tested either by or under the direction of a qualified person before use. The qualified person can limit the testing of altered, repaired or modified lifting magnets to the parts affected.

(b) The following items must be tested:

(i) Moving parts;

(ii) Latches;

(iii) Stops;

(iv) Switches;

(v) Control devices;

(vi) Alarms; and

(vii) Warning devices, including:

(A) Indicator lights;

(B) Gauges;

(C) Horns;

(D) Bells; and

(E) Pointers.

(c) Dated reports of all operational tests must be kept on file.

(7) Load tests.

(a) Prior to initial use, all new, altered, repaired, or modified close proximity lifting devices must be load tested and inspected by a qualified person. The qualified person can limit the test to the areas affected by the alteration, repair, or modification.

(b) The breakaway force of lifting magnets must be tested according to manufacturer's directions or ANSI B30.20-2010.

(8) Repair.

(a) Close proximity lifting magnets must be repaired as follows:

(i) Adjustments and testing must be done by or under the direction of a qualified person;

(ii) Replacement parts used must be at least equal to the original manufacturer's specifications;

(iii) The magnet must be inspected before returning to service as required in subsection (5) of this section.

(b) The following precautions must be taken before repairs on a magnet are started:

(i) Disconnect, lock out and tag all sources of power "Out of Service," if applicable; and

(ii) Tag any lifting magnet removed from service for repair "Out of Service."

(9) Lifting magnets must be operated only by qualified personnel.

(10) Operators must do the following:

(a) Test all controls before use, each shift;

(b) Check all meters and indicators for proper operation before making a lift;

(c) Consult a competent person before handling the load whenever there is any doubt as to safety;

(d) Respond only to instructions from competent persons, except for stop orders. Operators must obey a stop order at all times, no matter who gives it;

(e) Do not load the lifting magnet in excess of its rated load or with any load that it isn't specifically designed for;

(f) Apply the magnet to the load according to the instruction manual;

(g) Check that:

(i) Lifter ropes or chains are not kinked;

(ii) Multiple part lines are not twisted around each other;

(iii) The lifting magnet face and the contact area on the load are clean.

(h) Bring the magnet over the load in a way that minimizes swinging;

(i) Lift the load a few inches to make sure that the lifting magnet has been correctly applied;

(j) Keep the load or lifting magnet from contact with any obstruction;

(k) Set down any attached load and store the lifting magnet before leaving it;

(l) Check that all people near the lift are warned before lifting;

(m) Using the lifter for side pulls or sliding the load is prohibited, unless specifically authorized by a qualified person; and

(n) Riding on loads or the lifting magnet is prohibited.

NEW SECTION

WAC 296-155-34020 Remotely operated lifting magnets. (1) Remotely operated lifting magnets must be constructed in accordance with ASME B30.20-2010, Below-the-Hook Lifting Devices.

(2) Identification. All remotely operated lifting magnets must be marked with the following information:

(a) Manufacturer's name and address;

(b) Model or unit identification;

(c) Weight of lifting magnet;

(d) Duty cycle;

(e) Cold current;

(f) Voltage;

(g) If repaired or modified, name and address of repairer or modifier and (a) through (g) of this subsection if changed.

(3) Lifting magnets must be installed according to manufacturer's instructions.

(4) Inspections.

(a) A qualified person must inspect all new, altered, repaired or modified lifting magnets according to Tables 26 and 27. A qualified person can limit the inspection of altered, repaired or modified lifting magnets to the parts affected.

(b) Lifting magnets must be inspected, by the operator or another competent person, according to Table 26.

(c) A qualified person must determine whether signs of damage indicate a hazard.

(d) Hazardous conditions must be corrected before continuing use.

(e) A qualified person must perform periodic inspections of remotely operated lifting magnets according to Table 27. Include the items in Table 26.

(f) Make records of apparent external conditions to provide the basis for a continuing evaluation.

(g) Hazardous conditions must be corrected before continuing use.

Table 26
Remotely Operated Lifting Magnet Frequent Inspection

Inspect for:	How often:
Structural and suspension members for: • Deformation. • Cracks. • Excessive wear on any part of the lifting magnet.	• Normal service - Monthly. • Heavy service - Weekly to monthly. • Severe service - Daily to weekly. • Special or infrequent service - As recommended by a qualified person before and after each occurrence.
The lifting magnet face for: • Foreign materials. • Smoothness.	
Electrical conductors that are visible without disassembly.	• Before using, when a lifting magnet has been idle for more than one month.
Cracked housings, welds, and loose bolts.	

Note: • Normal service means service that involves operation with various weights within the rated load limit, averaging less than sixty-five percent of rated load limits.
• Heavy service means service that involves operation within the rated load limit, that exceeds the limits of normal service.
• Severe service means service that involves normal or heavy service with abnormal operating conditions.

Table 27
Remotely Operated Lifting Magnet Periodic Inspection

Inspect for:	How often:
Members, fasteners, and lifting parts for: • Deformation. • Wear. • Corrosion.	• Normal service for equipment in place - Yearly. • Heavy service - Quarterly. • Severe service - Monthly.
All electrical components for: • Proper operation. • Condition.	• Special or infrequent service - As recommended by a qualified person before the first occurrence and as directed by the qualified person for any subsequent occurrences.
Magnet coil for: • Ohmic and ground readings compared to manufacturer's standards.	

(5) Operational tests.

(a) All new, altered, repaired or modified lifting magnets must be tested either by or under the direction of a qualified person before use. The qualified person can limit the testing of altered, repaired or modified lifting magnets to the parts affected.

(b) The following items must be tested:

(i) All electrical equipment for proper operation;

(ii) Warning devices, including:

(A) Indicator lights;

(B) Gauges;

(C) Horns;

(D) Bells; and

(E) Pointers.

(c) Dated reports of all operational tests must be kept on file.

(6) Repair.

(a) Remotely operated lifting magnets must be repaired as follows:

(i) Have adjustments and testing done only by or under the direction of a qualified person;

(ii) Use replacement parts that are at least equal to the original manufacturer's specifications; and

(iii) Inspect the lifter according to subsection (4) of this section, before returning to service.

(b) The following precautions must be taken before repairs on a lifter are started:

(i) Disconnect, lock out and tag all sources of power "Out of Service."

(ii) Tag any magnet removed from service for repair "Out of Service."

(7) Lifting devices must be operated only by qualified personnel.

(8) Operators must do the following:

(a) Test all controls before use during a shift;

(b) Consult a competent person before handling the load whenever there is any doubt as to safety;

(c) Respond only to instructions from competent persons, except for stop orders. Operators must obey a stop order at all times, no matter who gives it;

(d) Do not load the lifting magnet in excess of its rated load or with any load that it is not specifically designed for;

(e) Apply the lifting magnet to the load according to the instruction manual;

(f) Check that:

(i) Lifter ropes or chains are not kinked;

(ii) Multiple part lines are not twisted around each other.

(g) Bring the lifting magnet over the load in a way that minimizes swinging;

(h) Keep the load or magnet from contact with any obstruction;

(i) Set down any attached load and store the lifting magnet before leaving it;

(j) Check that all people are clear of the load;

(k) Using the lifter for side pulls or sliding the load is prohibited, unless specifically authorized by a qualified person; and

(l) Riding on loads or the lifting magnet is prohibited.

NEW SECTION

WAC 296-155-34025 Scrap and material handling grapples. (1) Grapples must be constructed in accordance with ASME B30.20-2010, Below-the-Hook Lifting Devices.

(2) Identification. All grapples must be marked with the following information:

(a) Manufacturer's name and address;

(b) Serial number or unit identification;

(c) Grapple weight;

(d) Rated voltage, if applicable;

(e) Operating hydraulic pressure(s), if applicable;

(f) Rated capacity;

(g) If repaired or modified, name and address of repairer or modifier and (a) through (f) of this subsection if changed.

(3) Grapple installation.

(a) Grapples must be installed according to manufacturer's instructions.

(b) The hydraulic flows and pressures must be the same as shown in the manufacturer's instructions.

(4) Inspections.

(a) A qualified person must inspect all new, altered, repaired and modified grapples according to Table 28. A qualified person can limit the inspection of altered, repaired or modified grapples to the parts affected.

(b) Grapples must be visually inspected each shift they are used, by the operator or another competent person, according to Table 28.

(c) A qualified person must determine whether signs of damage indicate a hazard.

(d) Hazardous conditions must be corrected before continuing use.

Table 28
Grapple Frequent Inspection

Inspect for:	How often:
Structural members for: • Deformation. • Cracks. • Excessive wear on any part of the grapple.	• Normal service - Monthly. • Heavy service - Weekly to monthly. • Severe service - Daily to weekly. • Special or infrequent service - As recommended by a qualified person before and after each occurrence.
Pins and bushings.	
Hydraulic lines.	
Hydraulic cylinders.	• Before using, when a grapple has been idle for more than one month.
Loose bolts.	
Electrical conductors that are visible without disassembly.	

Note:
• Normal service means service that involves operation with various weights within the rated load limit, averaging less than sixty-five percent of rated load limits.
• Heavy service means service that involves operation within the rated load limit, that exceeds the limits of normal service.
• Severe service means service that involves normal or heavy service with abnormal operating conditions.

(e) A qualified person must perform a periodic inspection of grapples according to Table 29. Include the items from Table 28 of this section.

(f) Data inspection reports must be kept on critical items such as structural members, fasteners, lifting parts, hydraulic hoses, fittings and tubing, hydraulic motors and hydraulic cylinders.

(g) Hazardous conditions must be corrected before continuing use.

Table 29
Grapple Periodic Inspection

Inspect for:	How often:
Members, fasteners, and lifting parts for:	• Normal service for equipment in place - Yearly.

Inspect for:	How often:
• Deformation. • Wear. • Corrosion.	• Heavy service, unless external conditions indicate that disassembly should be done to permit detailed inspection - Quarterly.
Hydraulic hose, fittings, and tubing for: • Evidence of leakage at the surface of the hose or its junction with metal couplings.	• Severe service - Monthly.
• Blistering or abnormal deformation of the outer covering of the hose.	• Special or infrequent service - As recommended by a qualified person before the first occurrence and as directed by the qualified person for any subsequent occurrences.
• Leakage at threaded or clamped joints that cannot be eliminated by normal tightening or recommended procedures. • Excessive abrasion or scrubbing on the outer surface of hoses, rigid tubes, or fittings.	
Hydraulic motors for: • Loose bolts or fasteners. • Leaks at joints between sections. • Shaft seal leaks. • Unusual noises or vibration. • Loss of operating speed. • Excessive heating of the fluid. • Loss of pressure.	
Hydraulic cylinders for: • Drifting caused by fluid leaking across the piston seals. • Rod seal leakage. • Leaks at welded joints. • Scored, nicked, or dented cylinder rods.	
• Dented case (barrel). • Loose or deformed rod eyes or connecting joints.	
All electrical components, including meters, indicators and alarms for: • Proper operation. • Condition.	

(5) Operational tests.

(a) All new, altered, repaired or modified grapples must be tested either by or under the direction of a qualified person before use. The qualified person can limit the testing of altered, repaired or modified grapples to the parts affected.

(b) All warning devices must be tested, including:

(i) Indicator lights;

(ii) Gauges;

(iii) Horns;

(iv) Bells;

(v) Pointers;

(vi) Other warning devices.

(c) Dated reports of all operational tests must be kept on file.

(6) Repair.

(a) Grapples must be repaired as follows:

(i) Have adjustments and testing done only by or under the direction of a qualified person;

(ii) Use replacement parts that are at least equal to the original manufacturer's specifications;

(iii) Inspect the grapple according to subsection (4) of this section, before returning to service;

(b) The following precautions must be taken before repairs on a grapple are started:

(i) Disconnect, lock out and tag all sources of power "Out of Service";

(ii) Tag any grapple removed from service for repair "Out of Service."

(7) Grapples must be operated only by qualified personnel.

(8) Operators must do the following:

(a) Test all controls before use during a shift;

(b) Check all meters and indicators for proper operation before making a lift;

(c) Consult a competent person before handling the load whenever there is any doubt as to safety;

(d) Respond only to instructions from competent persons, except for stop orders. An operator must obey a stop order at all times, no matter who gives it;

(e) Do not load grapples in excess of the rated load or with any load that they are not specifically designed for;

(f) Apply the grapple to the load according to the instruction manual;

(g) Bring the grapple over the load in a way that minimizes swinging;

(h) Keep the load or grapple from contact with any obstruction;

(i) Set down any attached load and store the grapple before leaving it;

(j) Don't let anyone ride on loads or the grapple;

(k) Check that all people stay clear of the load.

AMENDATORY SECTION (Amending WSR 08-22-080, filed 11/4/08, effective 1/1/10)

WAC 296-155-529 ((~~Crane certifier accreditation and crane certification.~~)) Scope and definitions.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-52900 Scope. (1) Except as provided in subsection (3) of this section, this part applies to the following:

(a) Power-operated cranes and derricks used in construction that can hoist, lower and horizontally move a suspended load (with or without attachments). Such equipment includes, but is not limited to: Articulating boom cranes (such as knuckle-boom cranes); crawler cranes; floating cranes; cranes on barges; locomotive cranes; mobile cranes (such as wheel-mounted, rough-terrain, all-terrain, commercial truck-mounted, and boom truck cranes); multipurpose machines when configured to hoist and lower (by means of a winch or hook) and horizontally move a suspended load; industrial cranes (such as carry-deck cranes); cranes being used as dedicated pile drivers; service/mechanic trucks with a hoisting device; a crane on a monorail; tower cranes (such as fixed jib ("hammerhead boom"), luffing boom and self-erecting); pedestal cranes; portal cranes; overhead and gantry cranes; straddle cranes; side-boom tractors; derricks; and variations of such equipment((~~.~~)); and

(b) Personnel lifting with attached or suspended platforms using cranes or derricks (WAC 296-155-547).

(2) Attachments. This standard applies to equipment included in subsection (1) of this section when used with attachments. Such attachments, whether crane-attached or suspended include, but are not limited to:

- Hooks;
- Magnets;
- Grapples;
- Clamshell buckets;
- Orange peel buckets;
- Concrete buckets;
- Draglines;
- Personnel platforms;
- Augers or drills; and
- Pile driving equipment.

(3) The equipment listed below are exempted from WAC ((~~296-155-529~~)) 296-155-531 and 296-155-532 (Crane certifier accreditation and crane certification) through 296-155-53300 (Operator qualifications and certification):

(a) Cranes having a maximum rated capacity of one ton or less ((~~are exempt from this rule for the purposes of crane certification and operator certification~~)). See WAC 296-155-53414 for additional requirements.

(b) ((~~Equipment included in subsection (1) of this section while it has been converted or adapted for nonhoisting/lifting use. Such conversions/adaptations include, but are not limited to, power shovels, excavators and concrete pumps.~~

~~(c) Power shovels, excavators, wheel loaders, backhoes, loader backhoes, track loaders. This machinery is also excluded when used with chains, slings or other rigging to lift suspended loads. For rigging requirements see WAC 296-155-556 through 296-155-562.~~

~~(d) Automotive wreckers and tow trucks when used to clear wrecks and haul vehicles.~~

~~(e) Digger derricks when used for activities that are covered under chapter 296-45 WAC, Safety standards for electrical workers, or chapter 296-32 WAC, Safety standards for telecommunications. Cranes other than digger derricks when used for activities that are covered under chapter 296-45 WAC, Safety standards for electrical workers, or chapter 296-32 WAC, Safety standards for telecommunications are NOT exempt.~~

~~(f) Equipment originally designed as vehicle-mounted aerial devices (for lifting personnel) and self-propelled elevating work platforms.~~

~~(g) Hydraulic jacking systems, including telescopic/hydraulic gantries.~~

~~(h) Stacker cranes.~~

~~(i)~~)) Powered industrial trucks (forklifts) ((~~except~~)) when configured to hoist and lower (by means of a winch or hook) and horizontally move a suspended load((~~. (Powered industrial trucks including their attachments do not need to be certified by an accredited certifier~~)) are exempted from WAC 296-155-532 (crane certification). Operators must also follow the requirements in chapter 296-863 WAC, Forklifts and other powered industrial trucks ((~~and WAC 296-155-53300 of this chapter.)~~

~~(j) Mechanic's truck with a hoisting device when used in activities related to equipment maintenance and repair.~~

~~(k) Equipment that hoists by using a come-a-long or chainfall.~~

~~(l) Overhead/bridge cranes or hoists that travel or trolley manually.~~

~~(m) Dedicated drilling rigs.~~

~~(n) Gin poles used for the erection of communication towers.~~

~~(o) Tree trimming and tree removal work.~~

~~(p) Anchor handling or dredge-related operations with a vessel or barge using an affixed A-frame.~~

~~(q) Roustabouts~~)).

(((~~r~~))) (c) Service cranes with booms that rotate manually.

(((~~s) Machines equipped with a boom that is limited to up and down movement only and does not rotate.~~

~~(t) Conveyors.~~

~~(u) Pump hoists with booms that do not rotate.~~

~~(v) Permanently installed~~)) (d) Overhead/bridge, gantry cranes, semi-gantry, cantilever gantry, wall cranes, storage bridge cranes, ((~~and others~~)) launching gantry cranes, and similar equipment having the same fundamental characteristics ((~~which are located in manufacturing facilities or powerhouses.~~

~~(w) Cranes and their operators used on-site in manufacturing facilities or powerhouses for occasional or routine maintenance and repair work.~~

~~(x) Helicopter cranes.~~

~~(4) Digger derricks that do not meet the exemption criteria in subsection (3)(e) of this section must comply with WAC 296-155-529 (Crane certifier accreditation and crane certification) through WAC 296-155-53300 (Operator qualifications and certification) one hundred eighty days after the effective date of this section~~)), irrespective of whether it travels on tracks, wheels, or other means, when performing construction activities and not permanently installed.

(4) The equipment listed below are exempt from this part:

(a) Equipment included in subsection (1) of this section while it has been converted or adapted for nonhoisting/lifting use. Such conversions/adaptations include, but are not limited to, power shovels, excavators and concrete pumps.

(b) Power shovels, excavators, wheel loaders, backhoes, loader backhoes, track loaders. This machinery is also excluded when used with chains, slings or other rigging to lift suspended loads.

(c) Automotive wreckers and tow trucks when used to clear wrecks and haul vehicles.

(d) Equipment originally designed as vehicle-mounted aerial devices (for lifting personnel) and self-propelled elevating work platforms.

(e) Hydraulic jacking systems, including telescopic/hydraulic gantries.

(f) Stacker cranes.

(g) Mechanic's truck with a hoisting device when used in activities related to equipment maintenance and repair.

(h) Equipment that hoists by using a come-a-long or chainfall.

(i) Dedicated drilling rigs.

(j) Gin poles used for the erection of communication towers.

(k) Tree trimming and tree removal work.

(l) Anchor handling or dredge-related operations with a vessel or barge using an affixed A-frame.

(m) Roustabouts.

(n) Machines equipped with a boom that is limited to up and down movement only and does not rotate.

(o) Conveyors.

(p) Pump hoists with booms that do not rotate.

(q) Cranes and their operators used on-site in manufacturing facilities or powerhouses for occasional or routine maintenance and repair work.

(r) Helicopter cranes.

(s) Permanently installed overhead/bridge, gantry cranes, semi-gantry, cantilever gantry, wall cranes, storage bridge cranes, and others having the same fundamental characteristics.

(t) Digger derricks when used for activities that are covered under chapter 296-45 WAC, Safety standards for electrical workers, or chapter 296-32 WAC, Safety standards for telecommunications. Cranes other than digger derricks when used for activities that are covered under chapter 296-45 WAC, Safety standards for electrical workers, or chapter 296-32 WAC, Safety standards for telecommunications are **NOT** exempt.

(u) Powered industrial trucks (forklifts) except when configured to hoist and lower (by means of a winch or hook) and horizontally move a suspended load.

Note: Rigging requirements for material handling is located in Part F-1 of this chapter.

(5) Digger derricks that do not meet the exemption criteria in subsection (4) of this section must comply with WAC 296-155-531 (crane certifier accreditation and crane certification) through WAC 296-155-53300 (Operator qualifications and certification) one hundred eighty days after the effective date of this section.

((~~(5)~~)) (6) Where provisions of this standard direct an operator, crewmember, or other employee to take certain actions, the employer must establish, effectively communicate to the relevant persons, and enforce work rules, to ensure compliance with such provisions.

((~~(6)~~)) (7) Work covered by chapter 296-45 WAC, Safety standards for electrical workers is deemed in compliance with WAC 296-155-53408.

((~~(7)~~)) (8) WAC 296-155-53400 (35) through (39) does not apply to cranes designed for use on railroad tracks, when used on railroad tracks that are used as part of the general railroad system of transportation that is regulated pursuant to the Federal Railroad Administration under C.F.R. 49, Part 213, and that comply with applicable Federal Railroad Administration requirements. See WAC 296-155-53400(39).

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-52902 Definitions. Accredited crane certifier means a crane inspector who has been accredited by the department.

A/D director (assembly/disassembly) director means an individual who meets the requirements in this part for an A/D director, irrespective of the person's formal job title or whether the person is nonmanagement or management personnel.

Angle of loading means the acute angle between horizontal and the leg of the rigging, often referred to as horizontal angle. See Figures 18 and 33.

Anti two-block device means a device that, when activated, disengages all crane functions whose movement can cause two-blocking.

Apprentice operator or **trainee** means a crane operator who has not met requirements established by the department under RCW 49.17.430.

Articulating boom crane means a crane whose boom consists of a series of folding, pin connected structural members, typically manipulated to extend or retract by power from hydraulic cylinders.

Assembly/disassembly means the assembly and/or disassembly of components or attachments covered under this part. With regard to tower cranes, "erecting and climbing" replaces the term "assembly," and "dismantling" replaces the term "disassembly." Regardless of whether the crane is initially erected to its full height or is climbed in stages, the process of increasing height of the crane is an erection process.

Assist crane means a crane used to assist in assembling or disassembling a crane.

Attachments mean((~~s~~)) any device that expands the range ((~~or~~)) of tasks that can be done by the crane/derrick. Examples include, but are not limited to: An auger, drill, magnet, pile-driver, and boom-attached personnel platform.

Audible signal means a signal made by a distinct sound or series of sounds. Examples include, but are not limited to, sounds made by a bell, horn, or whistle.

Basket hitch means a method of rigging a sling in which the sling is passed around the load and both loop eyes or end fittings are attached to the lifting device.

Below-the-hook lifting device means a device used for attaching loads to a hoist. The device may contain components such as slings, hooks, rigging hardware, and lifting attachments.

Bird caging means the twisting of fiber or wire rope in an isolated area of the rope in the opposite direction of the rope lay, thereby causing it to take on the appearance of a bird cage.

Blocking (also referred to as "cribbing") means wood or other material used to support equipment or a component and distribute loads to the ground. It is typically used to support latticed boom sections during assembly/disassembly and under outrigger and stabilizer floats.

Boatswain's chair means a single-point adjustable suspension scaffold consisting of a seat or sling (which may be incorporated into a full body harness) designed to support one employee in a sitting position.

Bogie. See "travel bogie."

Boom (other than tower crane) means an inclined spar, strut, or other long structural member which supports the upper hoisting tackle on a crane or derrick. Typically, the length and vertical angle of the boom can be varied to achieve increased height or height and reach when lifting loads. Booms can usually be grouped into general categories of hydraulically extendible, cantilevered type, latticed section, cable supported type or articulating type.

Boom (tower cranes) on tower cranes: If the "boom" (i.e., principal horizontal structure) is fixed, it is referred to as a jib; if it is moveable up and down, it is referred to as a boom.

Boom angle indicator means a device which measures the angle of the boom relative to horizontal.

Boom hoist limiting device includes boom hoist disengaging device, boom hoist shut-off, boom hoist disconnect, boom hoist hydraulic relief, boom hoist kick-outs, automatic boom stop device, or derricking limiter. This type of device disengages boom hoist power when the boom reaches a predetermined operating angle. It also sets brakes or closes valves to prevent the boom from lowering after power is disengaged.

Boom length indicator indicates the length of the permanent part of the boom (such as ruled markings on the boom) or, as in some computerized systems, the length of the boom with extensions/attachments.

Boom stop includes boom stops (belly straps with struts/standoff), telescoping boom stops, attachment boom stops, and backstops. These devices restrict the boom from moving above a certain maximum angle and toppling over backward.

Boom suspension systems means a system of pendants, running ropes, sheaves, and other hardware which supports the boom tip and controls the boom angle.

Braided wire rope means a wire rope formed by plaiting component wire ropes.

Bridle wire rope sling means a sling composed of multiple legs with the top ends gathered in a fitting that goes over the lifting hook.

Builder means the builder/constructor of derricks.

Cable laid endless sling-mechanical joint means a wire rope sling made endless from one continuous length of cable laid rope with the ends joined by one or more metallic fittings.

Cable laid grommet-hand tucked means an endless wire rope sling made from one continuous length of rope formed to make a body composed of six ropes around a rope core. The rope ends are tucked into the body, thus forming the core. No sleeves are used.

Center of gravity means the center of gravity of any object is the point in the object around which its weight is evenly distributed. If you could put a support under that point, you could balance the object on the support.

Certified crane inspector means a crane certifier accredited by the department.

Certified welder means a welder who meets nationally recognized certification requirements applicable to the task being performed.

Choker hitch means a method of rigging a sling in which the sling is passed around the load, then through one loop eye, end fitting, or other device, with the other loop eye or end fitting attached to the lifting device. This hitch can be done with a sliding choker hook or similar device.

Climbing means the process in which a tower crane is raised or lowered to a new working height, either by adding or removing tower sections to the top of the crane (top climbing), or by a system in which the entire crane is raised or lowered inside the structure (inside climbing).

Come-a-long means a mechanical device typically consisting of a chain or cable attached at each end that is used to facilitate movement of materials through leverage.

Competent person means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

Construction work means (for the purposes of this part) all or any part of excavation, construction, erection, alteration, repair, demolition, and dismantling of buildings and other structures and all related operations; the excavation, construction, alteration, and repair of sewers, trenches, caissons, conduits, pipelines, roads, and all related operations; the moving of buildings and other structures, and the construction, alteration, repair, or removal of wharfs, docks, bridges, culverts, trestles, piers, abutments, or any other related construction, alteration, repair, or removal work. Construction work does not include the normal day-to-day activities at manufacturing facilities or powerhouses.

Controlled load lowering means lowering a load by means of a mechanical hoist drum device that allows a hoisted load to be lowered with maximum control using the

gear train or hydraulic components of the hoist mechanism. Controlled load lowering requires the use of the hoist drive motor, rather that the load hoist brake, to lower the load.

Controlling entity means an employer that is a prime contractor, general contractor, construction manager or any other legal entity which has the overall responsibility for the construction of the projects, its planning, quality, and completion.

Counterjib (counterweight jib) means a horizontal member of the tower crane on which the counterweights and usually the hoisting machinery are mounted.

Counterweight means weight used to supplement the weight of equipment in providing stability for lifting loads by counterbalancing those loads.

Crane means power-operated equipment used in construction that can hoist, lower, and horizontally move a suspended load. "Crane" includes, but is not limited to: Articulating boom cranes, such as knuckle-boom cranes; crawler cranes; floating cranes; cranes on barges; locomotive cranes; mobile cranes, such as wheel-mounted, rough-terrain, all-terrain, commercial truck mounted, and boom truck cranes; multipurpose machines when configured to hoist and lower by means of a winch or hook and horizontally move a suspended load; industrial cranes, such as carry-deck cranes; dedicated pile drivers; service/mechanic trucks with a hoisting device; a crane on a monorail; tower cranes, such as fixed jib, hammerhead boom, luffing boom, and self-erecting; pedestal cranes; portal cranes; overhead and gantry cranes; straddle cranes; side-boom tractors; derricks; and variations of such equipment.

Crane/derrick type means cranes or derricks as established by American Society of Mechanical Engineers (ASME). Crane operator means an individual engaged in the operation of a crane.

Crane level indicator means a device for determining true horizontal (also see safety devices).

Crawler crane means equipment that has a type of base mounting which incorporates a continuous belt of sprocket driven track.

Critical lift means a lift that:

• Exceeds seventy-five percent of the crane or derrick rated load chart capacity; or

• Requires the use of more than one crane or derrick.

Cross rod means a wire used to join spirals of metal mesh to form a complete fabric. See Figure 22.

Crossover points means locations on a wire rope which is spooled on a drum where one layer of rope climbs up on and crosses over the previous layer. This takes place at each flange of the drum as the rope is spooled onto the drum, reaches the flange, and begins to wrap back in the opposite direction.

Dedicated channel means a line of communication assigned by the employer who controls the communication system to only one signal person and crane/derrick or to a coordinated group of cranes/derricks/signal persons.

Dedicated drilling rig means a machine which creates bore holes and/or shafts in the ground.

Dedicated pile-driver is a machine that is designed to function exclusively as a pile-driver. These machines typically have the ability to both hoist the material that will be pile-driven and to pile-drive that material.

Dedicated spotter (power lines): To be considered a dedicated spotter, the requirements of WAC 296-155-53302 (Signal person qualifications) must be met and his/her sole responsibility is to watch the separation between the power line and the equipment, the load line and load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached.

Derrick is an apparatus consisting of a mast or equivalent member held at the end by guys or braces, with or without a boom, for use with a hoisting mechanism and operating ropes.

Design factor means the ratio between nominal or minimum breaking strength and rated load.

Digger derrick means a multipurpose vehicle-mounted machine which is primarily designed to accommodate components that dig holes, set poles, and position materials and apparatus.

Directly under the load means a part or all of an employee is directly beneath the load.

Dismantling includes partial dismantling (such as dismantling to shorten a boom or substitute a different component).

Drum rotation indicator is a device on a crane or hoist which indicates in which direction and at what relative speed a particular hoist drum is turning.

Electrical contact means when a person, object, or equipment makes contact or comes close in proximity with an energized conductor or equipment that allows the passage of current.

Employer-made equipment means floating cranes/derricks designed and built by an employer for the employer's own use.

Encroachment is where any part of the crane, load line or load (including rigging and lifting accessories) breaches a minimum clearance distance that this part requires to be maintained from a power line.

Equipment criteria means instructions, recommendations, limitations and specifications.

Fabric (metal mesh) means the flexible portion of the sling exclusive of end fittings consisting of a series of transverse spirals and cross rods.

Fall protection equipment means guardrail systems, safety net systems, personal fall arrest systems, positioning device systems or fall restraint systems.

Fall restraint system means a fall protection system that prevents the user from falling any distance. The system is comprised of either a body belt or body harness, along with an anchorage, connectors, and other necessary equipment. The other components typically include a lanyard, and may also include a lifeline and other devices.

Fall zone means the area (including, but not limited to, the area directly beneath the load) in which it is reasonably foreseeable that partially or completely suspended materials could fall in the event of an accident.

Flange points means a point of contact between rope and drum flange where the rope changes layers.

Floating cranes/derricks means equipment designed by the manufacturer (or employer) for marine use by permanent attachment to a barge, pontoons, vessel or other means of flotation.

Free fall (of the load line) means when only the brake is used to regulate the descent of the load line (the drive mechanism is not used to drive the load down faster or retard its lowering).

Free rated load test means testing stability and operation of crane, carrier, wheels, tires, tracks, brakes, etc., under load, when lifting without outriggers and/or traveling with the load are permitted at the activity for the type of crane being tested.

Free surface effect is the uncontrolled transverse movement of liquids in compartments which reduce a vessel's transverse stability.

Functional testing means the testing of a crane, typically done with a light load or no load, to verify the proper operation of a crane's primary function, i.e., hoisting, braking, booming, swinging, etc. A functional test is contrasted to testing the crane's structural integrity with heavy loads.

Gin pole derrick means a boom without a mast which has guys arranged from its top to permit leaning the mast in one or more directions. The load is lifted and lowered by ropes reeved through sheaves or blocks at the top of the mast and the lower block.

Ground conditions means the ability of the ground to support the crane/derrick (including slope, compaction, and firmness).

Ground crew means those individuals who are involved in the personnel lift, other than the hoisting equipment operator and the platform occupants. These individuals include riggers, signal persons, and supervision.

Gudgeon pins means a pin connecting the mast cap to the mast allowing rotation of the mast.

Guy means a rope used to steady or secure the mast, boom, or other member in the desired position.

Hairpin anchors means a hairpin-shaped, guy-supporting anchor that is placed in footings or walls before concrete is poured and held in place by the cured concrete.

Hitch (hitched) means a method of rigging (attaching) a sling temporarily to a load or object for the purpose of lifting.

Hoist means a mechanical device for lifting and lowering loads by winding rope onto or off a drum.

Hoisting means the act of raising, lowering or otherwise moving a load in the air with equipment covered by this standard. As used in this standard, "hoisting" can be done by means other than wire rope/hoist drum equipment.

Hoisting equipment means a machine for lifting and lowering a load and moving it horizontally. The machine may be fixed or mobile and be driven manually, by power, or by a combination of both.

Hook latch means a mechanical device used to close the throat opening of a hook.

Insulating link/device means an insulating device listed, labeled, or accepted by a nationally recognized testing laboratory in accordance with 29 C.F.R. 1910.7.

Intermediate rail means the middle member of a barrier along the edges of a platform, located approximately one-half the distance between the platform floor and top rail.

Jib means an extension attached to the boom point to provide added boom length for lifting specified loads. The jib may be in line with the boom or offset to various angles in the vertical plane of the boom. For tower cranes, see boom (tower cranes).

Jib stop (also referred to as a jib backstop), is the same type of device as a boom stop but is for a fixed or luffing jib.

Land crane/derrick means equipment not originally designed by the manufacturer for marine use by permanent attachment to barges, pontoons, vessels, or other means of flotation.

List means the angle of inclination about the longitudinal axis of a barge, pontoons, vessel, or other means of flotation.

Live boom means a boom whose lowering is controlled by a brake without the aid of other lowering retarding devices (free-fall capable).

Live load line means a load line whose lowering is controlled by a brake without the aid of other lowering retarding devices (free-fall capable).

Load is the weight of the object being lifted or lowered, including the weight of the load-attaching equipment such as the load block, ropes, slings, shackles, and any other auxiliary attachment.

Load moment (or rated capacity) indicator means a system which aids the equipment operator by sensing the overturning moment on the equipment, i.e., load X radius. It compares this lifting condition to the equipment's rated capacity, and indicates to the operator the percentage of capacity at which the equipment is working. Lights, bells, or buzzers may be incorporated as a warning of an approaching overload condition.

Load moment (or rated capacity) limiter means a system which aids the equipment operator by sensing the overturning moment on the equipment, i.e., load X radius. It compares this lifting condition to the equipment's rated capacity, and when the rated capacity is reached, it shuts off power to those equipment functions which can increase the severity of loading on the equipment, e.g., hoisting, telescoping out, or luffing out. Typically, those functions which decrease the severity of loading on the equipment remain operational, e.g., lowering, telescoping in, or luffing in.

Load ratings means a set of rated loads for stipulated hoisting equipment configurations and operating conditions.

Load sustaining/bearing parts means those parts of a crane that support the crane or load and upon failure could cause dropping, uncontrolled shifting, or uncontrolled movement of the crane or load.

Locomotive crane means a crane mounted on a base or car equipped for travel on a railroad track.

Luffing boom is a member hinged to the rotating superstructure and used for supporting the hoisting tackle.

Luffing jib limiting device is similar to a boom hoist limiting device, except that it limits the movement of the luffing jib.

Marine worksite means a construction worksite located in, on or above the water.

Master coupling link means an alloy steel welded coupling link used as an intermediate link to join alloy steel chain to master links.

Master link means forged or welded steel link used to support all members (legs) of an alloy steel chain sling or wire rope sling.

Mechanical coupling link (alloy steel chain) means a nonwelded, mechanically closed link used primarily to attach fittings to alloy steel chain.

Mobile cranes means a lifting device incorporating a cable suspended latticed boom or hydraulic telescopic boom designed to be moved between operating locations by transport over the road. ((~~These are referred to in Europe as a crane mounted on a truck carrier.~~))

Moving point-to-point means the times during which an employee is in the process of going to or from a work station.

Multipurpose machine means a machine that is designed to be configured in various ways, at least one of which allows it to hoist (by means of a winch or hook) and horizontally move a suspended load. For example, a machine that can rotate and can be configured with removable forks/tongs (for use as a forklift) or with a winch pack, jib (with a hook at the end) or jib used in conjunction with a winch. When configured with the forks/tongs, it is not covered by this part. When configured with a winch pack, jib (with a hook at the end) or jib used in conjunction with a winch, it is covered by this part.

Multiple lift rigging means a rigging assembly manufactured by wire rope rigging suppliers that facilitates the attachment of up to five independent loads to the hoist rigging of a crane.

Nationally recognized accrediting agency is an organization that, due to its independence and expertise, is widely recognized as competent to accredit testing organizations.

Nonconductive means that, because of the nature and condition of the materials used, and the conditions of use (including environmental conditions and condition of the material), the object in question has the property of not becoming energized (that is, it has high dielectric properties offering a high resistance to the passage of current under the conditions of use).

Nonstandard tower crane base means any deviation from the structural support or base configuration recommended by the crane manufacturer.

Occasional or routine maintenance and repair work means regular, customary and foreseeable work necessary to keep equipment in good repair and/or condition. This also includes regular, customary and foreseeable work necessary to return equipment to sound condition after damage.

Operational aid means an accessory that provides information to facilitate operation of a crane or that takes control of particular functions without action of the operator when a limiting condition is sensed. Examples of such devices include, but are not limited to, the following: Anti-two-block device, rated capacity indicator, rated capacity (load) limiter, boom angle or radius indicator, lattice boom hoist disconnect device, boom length indicator, drum rotation indicator, load indicator, and wind speed indicator.

Operational controls means levers, switches, pedals and other devices for controlling equipment operation.

Operator is a person who is operating the equipment.

Outriggers means extendable or fixed members attached to the mounting base, which rests on supports at the outer ends, used to support the crane.

Overhead/bridge and gantry cranes includes overhead/bridge cranes, cranes on monorails, under hung cranes, semigantry, cantilever gantry, wall cranes, storage bridge cranes, launching gantry cranes, and similar equipment, irrespective of whether it travels on tracks, wheels, or other means.

Pendants includes both wire and bar types. Wire type: A fixed length of wire rope with mechanical fittings at both ends for pinning segments of wire rope together. Bar type: Instead of wire rope, a bar is used. Pendants are typically used in a latticed boom crane system to easily change the length of the boom suspension system without completely changing the rope on the drum when the boom length is increased or decreased.

Personal fall arrest system means a system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, and a body harness and may include a lanyard, deceleration device, lifeline, or suitable combination of these.

Personnel lifting means raising, lowering, or transporting personnel using a crane/derrick.

Personnel platform - Boom attached means a platform attached to the boom of the crane.

Personnel platform - Suspended means a platform attached to a crane/derrick using wire rope, chain, or a jointed attachment and that has no installed motion controls for the platform itself.

Personnel platform suspension system means the rope or chain slings and other components, including fastening devices, used to connect the crane/derrick to the personnel platform.

Platform occupant means a person who is within the guardrail barrier while the personnel platform is in a hoisted position.

Platform rating means the maximum capacity of a personnel lifting platform, established by the platform manufacturer, in terms of total weight and the number of occupants allowed.

Portal crane is a type of crane consisting of a rotating upper structure, hoist machinery, and boom mounted on top of a structural gantry which may be fixed in one location or have travel capability. The gantry legs or columns usually have portal openings in between to allow passage of traffic beneath the gantry.

Power controlled lowering means a system or device in the power train, other than the load hoist brake, that can regulate the lowering rate of speed of the load hoist mechanism.

Powerhouse means a plant wherein electric energy is produced by conversion from some other form of energy (e.g., chemical, nuclear, solar, mechanical, or hydraulic) by means of suitable apparatus. This includes all generating station auxiliaries and other associated equipment required for the operation of the plant. Not included are stations producing power exclusively for use with communication systems.

Power lines means electrical distribution and electrical transmission lines.

Procedures include, but are not limited to: Instructions, diagrams, recommendations, warnings, specifications, protocols, and limitations.

Proximity alarm is a device that provides a warning of proximity to a power line that has been listed, labeled or accepted by a nationally recognized testing laboratory in accordance with 29 C.F.R. 1910.7.

Qualified crane operator means a crane operator who meets the requirements established by the department under RCW 49.17.430.

Qualified evaluator (not a third party) means a person employed by the signal person's or the rigger's employer (as applicable) who has demonstrated that he/she is competent in accurately assessing whether individuals meet the qualification requirements in this part for a signal person or a rigger.

Qualified evaluator (third party) means an entity that, due to its independence and expertise, has demonstrated that it is competent in accurately assessing whether individuals meet the qualification requirements in this part for a signal person or a rigger.

Qualified person means a person who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training and experience, successfully demonstrated the ability to solve/resolve problems relating to the subject matter, the work, or the project.

Qualified rigger is a rigger who meets the requirements in WAC 296-155-53306.

Qualified signal person is a signal person who meets the requirements in WAC 296-155-53302.

Range control limit device is a device that can be set by an equipment operator to limit movement of the boom or jib tip to a plane or multiple planes.

Range control warning device is a device that can be set by an equipment operator to warn that the boom or jib tip is at a plane or multiple planes.

Rated capacity means the maximum working load permitted by the manufacturer under specified working conditions. Such working conditions typically include a specific combination of factors such as equipment configuration, radii, boom length, and other parameters of use.

Rated capacity indicator, see load moment indicator.

Rated capacity limiter, see load moment limiter.

Repetitive pickup points refer to, when operating on a short cycle operation, the rope being used on a single layer and being spooled repetitively over a short portion of the drum.

Rotation resistant rope means a type of wire rope construction which reduces the tendency of a rope to rotate about its axis under load. Usually, this consists of an inner system of core strands laid in one direction covered by an outer system of strands laid in the opposite direction.

RPE means a registered professional engineer licensed under RCW 18.43.040(1).

RPSE means a registered professional structural engineer licensed under RCW 18.43.040(1).

Running wire rope is a wire rope that moves over sheaves or drums.

Runway means a firm, level surface designed, prepared and designated as a path of travel for the weight and configuration of the crane being used to lift and travel with the crane suspended platform. An existing surface may be used as long as it meets these criteria.

Safety devices, examples of safety devices are, but are not limited to, the following: Horn, boom/jib or trolley stops, crane level indicator, hydraulic holding device/check valve, rail clamps, rail stops, brakes, deadman control or forced neutral return control, emergency stop switch, guards, handrails, audible and visual alarms, etc.

Safety or health standard means a standard adopted under this chapter.

Section means a section of this part, unless otherwise specified.

Side-boom crane means a track-type or wheel-type tractor having a boom mounted on the side of the tractor, used for lifting, lowering, or transporting a load suspended on the load hook. The boom or hook can be lifted or lowered in a vertical direction only.

Sling means an assembly to be used for lifting when connected to a lifting mechanism. The upper portion of the sling is connected to the lifting mechanism and the lower supports the load, as described in this part.

Special hazard warnings means warnings of site-specific hazards (for example, proximity of power lines).

Spiral means a single transverse coil that is the basic element from which metal mesh is fabricated.

Stability (flotation device) means the tendency of a barge, pontoons, vessel, or other means of flotation to return to an upright position after having been inclined by an external force.

Stabilizer means an extendable or fixed member attached to the mounting base to increase the stability of the crane, but that may not have the capability of relieving all of the weight from the wheels or tracks.

Standard method means the hand signals established in the applicable ASME B30 series and WAC 296-155-56400, Mobile crane hand signal chart.

Standing wire rope means a supporting wire rope which maintains a constant distance between the points of attachment to the two components connected by the wire rope.

Superstructure: See upperworks.

Supporting materials means blocking, mats, cribbing, marsh buggies (in marshes/wetlands), or similar supporting materials or devices.

Taglines means a rope (usually fiber) attached to a lifted load for purposes of controlling load spinning and pendular motions or used to stabilize a bucket or magnet during material handling operations.

Tender means an individual responsible for monitoring and communication with a diver.

Tilt up or tilt down operation means raising/lowering a load from the horizontal to vertical or vertical to horizontal.

Toe board means a vertical barrier at foot level, along the edges of the platform, to protect against material from falling over the edge.

Top rail means the top member of a barrier along the edges of a platform to protect against persons from falling off the platform.

Tower crane means a type of lifting structure which utilizes a vertical mast or tower to support a working boom (jib) in an elevated position. Loads are suspended from the working boom. While the working boom may be of the fixed type (horizontal or angled) or have luffing capability, it can always rotate to swing loads, either by rotating on the top of the tower (top slewing) or by the rotation of the tower (bottom slewing). The tower base may be fixed in one location or ballasted and moveable between locations. Mobile cranes that are configured with a luffing jib and/or tower attachments are not considered tower cranes under this part.

Travel means the function of the hoisting equipment moving under its own power from one location to another.

Travel bogie (tower cranes) means an assembly of two or more axles arranged to permit vertical wheel displacement and equalize the loading on the wheels.

Trim means the angle of inclination about the transverse axis of a barge, pontoons, vessel or other means of flotation.

Two blocking means a condition in which a component that is uppermost on the hoist line such as the load block, hook block, overhaul ball, or similar component, comes in contact with the boom tip, fixed upper block or similar component. This binds the system and continued application of power can cause failure of the hoist rope or other component.

Unavailable procedures means procedures that are no longer available from the manufacturer, or have never been available from the manufacturer.

Upperstructure: See upperworks.

Upperworks means the revolving frame of equipment on which the operating machinery (and many cases the engine) are mounted along with the operator's cab. The counterweight is typically supported on the rear of the upperstructure and the boom or other front end attachment is mounted on the front.

Up to means "up to and including."

Vertical hitch means a method of rigging a sling in which the load is attached to the loop eye or end fitting at one end of the sling and the loop eye or end fitting at the other end is attached to the lifting device. Any hitch less than five degrees from the vertical may be considered a vertical hitch.

Wire rope means a flexible rope constructed by laying steel wires into various patterns of multiwired strands around a core system to produce a helically wound rope.

Working load means the external load applied to the hoisting equipment, including the personnel lifting platform, its contents, and the load attaching equipment, such as lowered load block, shackles, and slings.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53300 Operator qualifications and certification. (1) Prior to operating any crane covered under chapter 296-155 WAC, Part L, with the exception of the trainee/apprentice requirements outlined in subsection (2) of this section and those cranes exempt in WAC 296-155-52900(3), the employer must ensure that the operator meets the following requirements:

(a) Has a valid crane operator certificate, for the type of crane to be operated, issued by a crane operator testing organization which has an accredited program, accredited by a nationally recognized accrediting agency. The operator certification must include a successful passing of a written and practical examination for each crane category listed in Table 3 and by crane type for mobile cranes.

(b) A determination through a written test that:

(i) The individual knows the information necessary for safe operation of the specific type of crane/derrick the individual will operate, including all of the following:

(A) The controls and operational/performance characteristics.

(B) Use of, and the ability to calculate, load/capacity information on a variety of configurations of the crane/derrick.

(C) Procedures for preventing and responding to power line contact.

(D) Technical knowledge similar to the subject matter criteria listed in WAC 296-155-56420 of this part applicable to the specific type of crane/derrick the individual will operate. Use of WAC 296-155-56420 criteria meets the requirements of this provision.

(E) Technical knowledge applicable to:

(I) The suitability of the supporting ground and surface to handle expected loads.

(II) Site hazards.

(III) Site access.

(F) This part, including applicable incorporated materials.

(ii) The individual is able to read and locate relevant information in the equipment manual and other materials containing information referred to in (i) of this subsection.

(c) A determination through a practical test that the individual has the skills necessary for safe operation of the crane/derrick, including the following:

(i) Ability to recognize, from visual and auditory observation, the items listed in WAC 296-155-53405(2).

(ii) Operational and maneuvering skills.

(iii) Application of load chart information.

(iv) Application of safe shut-down and securing procedures.

Notes:
- An operator's certificate issued by the accredited testing agency is valid for a five-year period, and must be renewed to ensure operators maintain qualified operator status.
- For self-erecting tower cranes, the department will accept a tower crane certification issued by a nationally accrediting testing agency.
- For derricks, the department will accept, at a minimum, a lattice boom truck or crawler mobile crane operator's certificate.
- An operator will be deemed qualified to operate a crane if the operator is certified under (a) of this subsection for the type and capacity of the crane or for higher-capacity crane of the same type.

(d) If there is no accredited written or practical test for operator certification available, the employer must ensure the operator has been completely trained, evaluated and tested by the employer on the operating procedures for the piece of equipment in use as recommended by the crane/equipment manufacturer and the applicable ASME standard. This process must be documented and made available upon request.

(e) Has crane hours of experience as shown in Table 3; and

(f) Pass a substance abuse test conducted by a recognized laboratory.

Exemption: When it is necessary in the performance of their duties, manufacture representatives, factory representatives and maintenance personnel are not required to be certified crane operators.

Crane Operator Experience for Cranes Used in the Construction Industry
Table 3

The 5 Categories of Cranes and their Types	Number of Hours of Actual Crane Operating Experience	Number of Hours of Crane Related Experience
(1) Mobile Cranes		
(a) Lattice Boom Crawler Cranes (LBC)	300 tons and above 1000 Hours	300 tons and above 1000 Hours
	Under 300 tons 500 Hours	Under 300 tons 500 Hours
(b) Lattice Boom Truck Cranes (LBT)	300 tons and above 1000 Hours	300 tons and above 1000 Hours
	Under 300 tons 500 Hours	Under 300 tons 500 Hours
(c) Large Telescopic Boom Cranes (Swing Cab) (TLL) (including digger derricks)	Over 130 tons 750 Hours	Over 130 tons 750 Hours
	Over 40 tons to 130 tons 250 Hours	Over 40 tons to 130 tons 250 Hours
	40 tons and under 40 Hours	40 tons and under 40 Hours
(d) Small Telescopic Boom Cranes (Fixed Cab) (TSS) (including digger derricks)	15 tons and above 40 Hours	15 tons and above 40 Hours
	Over 5 tons and under 15 tons 20 Hours	Over 5 tons and under 15 tons 20 Hours
	5 tons and under 8 hours	5 tons and under 16 hours
(2) Articulating Boom Cranes	20 Hours	20 Hours
(3) Tower Cranes		
(a) Hammerhead	500 Hours	500 Hours
(b) Luffer	500 Hours	500 Hours
(c) Self-Erecting	50 Hours	50 Hours
(4) Overhead/Bridge and Gantry Cranes		
(a) Cab Operated	40 Hours	40 Hours
(b) Pendant/Remote	40 Hours	40 Hours
(5) Derricks (not including digger derricks)	20 Hours	500 Hours
Hours of actual crane operating experience. For all cranes: Time while the operator is at the controls of the crane; and/or has direct control of that crane; and/or a combination of operating hours within the same crane type. For mobile cranes: It also includes time while installing/removing boom sections, luffing boom, jib, extending and retracting outriggers/stabilizers, leveling crane, and replacing hoisting rope. For tower cranes: It includes time while jumping (increasing the height of the tower/mast). **Note:** Additional actual crane operator experience may account for crane related experience.		
Hours of crane related experience: Time as a signalperson/bellman, oiler, crane mechanic, crane inspector, formal classroom training, crane simulator operation, and a combination of operating hours on other categories of cranes.		

Note: Cranes and other lifting machines covered under this part that are exempt can be found in WAC 296-155-52900(3).

(2) Prequalification/certification training period. An employee who is not a qualified crane operator as outlined in subsection (1) of this section is permitted to operate the crane as part of his/her training providing the following requirements are met:

(a) The employee ("trainee/apprentice") must be provided with sufficient training prior to operating the crane to enable the trainee to operate the crane safely under limita-

tions established by this section (including continuous supervision) and any additional limitations established by the employer.

(b) The tasks performed by the trainee/apprentice while operating the crane must be within the trainee's ability, as determined by the supervising qualified crane operator.

(c) Qualified crane/derrick operator. While operating the crane/derrick, the trainee/apprentice must be continuously supervised by a qualified crane/derrick operator who meets the following requirements:

(i) The qualified crane/derrick operator is an employee or agent of the trainee's/apprentice's employer.

(ii) The qualified crane/derrick operator under this section is familiar with the proper use of the crane's/derrick's controls.

(iii) While supervising the trainee/apprentice, the qualified crane/derrick operator performs no tasks that detract from the qualified crane/derrick operator's ability to supervise the trainee/apprentice.

(iv) For cranes other than tower cranes: The qualified crane/derrick operator and the trainee/apprentice must be in direct line of sight of each other. In addition, they must communicate verbally or by hand signal.

(v) For tower cranes: The qualified crane operator and the trainee/apprentice must be in direct communication with each other.

(d) The trainee/apprentice must not operate the crane in any of the following circumstances:

(i) If any part of the crane, load line or load (including rigging and lifting accessories), if operated up to the crane's maximum working radius in the work zone, could get within twenty feet of a power line that is up to three hundred fifty kV, or within fifty feet of a power line that is over three hundred fifty kV;

(ii) If the crane is used to hoist personnel;

(iii) In a multiple-crane or multiple load line lift situations; or

(iv) Multiple-lift rigging, as defined in WAC 296-155-52902, can only be accomplished by the trainee/apprentice when the qualified crane operator determines that the trainee's/apprentice's skills are sufficient for this high-skill work.

(v) Critical lifts, as defined in WAC 296-155-52902, can only be accomplished by the trainee/apprentice when the qualified crane operator determines that the trainee's/apprentice's skills are sufficient for this high-skill work.

(3) The employer must obtain documentation showing hours of crane operator experience and crane related experience separated out by crane type and capacity.

Note: The employer may accept a signed declaration from the crane operator attesting to actual hours of crane operator experience and crane related experience separated out by crane type and capacity. For sample declaration form see WAC 296-155-56425.

(4) The department may recognize crane operator certification from another state or territory of the United States as equivalent to qualified crane operator requirements if the department determines that the other jurisdiction's credentialing standards are substantially similar to the qualified crane operator requirements.

(5) Crane operator experience and crane related experience must be documented and separated out by crane type and capacity; this documentation need only show the minimum amount of hours as outlined in Table 3 above. If the employer is documenting crane operating and/or related crane experience hours, the employer must provide a copy of the hours to the operator as soon as practical, if requested.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53306 Rigger qualifications. (1) The rigger must meet the qualification requirements (subsection (3) of this section) prior to performing hoisting activities for assembly and disassembly work (WAC 296-155-53402 (19)(a)). A qualified rigger is required whenever ((~~workers~~)) employees are ((~~within the fall zone and~~)) engaged in hooking, unhooking, or guiding ((~~a~~)) the load, or ((~~doing~~)) in the initial connection of a load to a component or structure, and are within the fall zone (WAC 296-155-53400 (43)(c)). This requirement must be met by using either Option (1) or Option (2).

(a) Option (1) - Third-party qualified evaluator. The rigger has documentation from a third-party qualified evaluator showing that the rigger meets the qualification requirements listed in subsection (3) of this section.

(b) Option (2) - Employer's qualified evaluator. The employer has its qualified evaluator assess the individual and determine that the individual meets the qualification requirements listed in subsection (3) of this section and provides documentation of that determination. An assessment by an employer's qualified evaluator under this option is not portable meaning other employers are not permitted to use this qualification to meet the requirements of this section.

(c) The employer must make the documentation for whichever option is used available at the site while the rigger is employed by the employer. The documentation must specify each type of rigging for which the rigger meets the requirements of subsection (3) of this section.

(2) If subsequent actions by the rigger indicate that the individual may not meet the qualification requirements listed in subsection (3) of this section, the employer must not allow the individual to continue working as a rigger until retraining is provided and a reassessment is made in accordance with subsection (1) of this section that confirms that the individual meets the qualification requirements.

(3) Qualification requirements. Each rigger must:

(a) Know and understand the requirements located in ASME B30.7-2006, Base-Mounted Drum Hoists, B30.9-2010, Slings, B30.10-2009, Hooks, B30.16-2007, Overhead Hoists (Underhung), B30.20-2010, Below-the-Hook Lifting Devices, B30.21-2005, Manually Lever Operated Hoists and B30.26-2004, Rigging Hardware, as applicable.

(b) Know and understand the type of sling and hitch used. For example, if synthetic web slings are used, the rigger must know and understand the removal criteria for this type of sling and how to properly use the sling.

(c) Be competent in the application of the type of hitches used.

(d) Have a basic understanding of slings, rigging hardware and below-the-hook lifting devices (as applicable); their limitations, rigging practices, associated hazards and inspection requirements.

(e) Know and understand load weight estimation, center of gravity, effect of angles on rigging components, load turning, knots/tag lines, chain hoist/come-a-long usage, winch and block usage, and basic hand signals, as applicable.

(f) Know and understand the relevant requirements of WAC 296-155-556 through 296-155-56220 and this section.

(g) Demonstrate that they meet the requirements in (a) through (e) of this subsection through a written test and through a practical test. All tests must be documented.

Notes: • The provisions of subsection (3)(g) of this section are ((~~applicable one hundred eighty days after the effective date of this section~~)) not required until February 1, 2013.

• This section does not require that each and every worker associated with the rigging of a component or structure to be a "fully qualified rigger" as defined in this section, the requirement is for at least one of the workers to be a fully qualified rigger. However, all other associated workers must be qualified by training or experience to perform their assigned tasks (WAC 296-155-035(2)).

(4) Qualification period. A rigger qualification cannot exceed a five-year period; this qualification must be renewed every five years to ensure riggers maintain qualified status. At a minimum, this renewal must include a documented written exam.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53400 General requirements. (1) All cranes and derricks covered under this part, except for those exempted in WAC 296-155-52900(3), must be certified annually by an accredited certifier recognized by the department, for detailed information about this certification see WAC 296-155-532.

(2) All crane and derrick operators covered under this part, except for those exempted in WAC 296-155-52900(3), must be qualified as required by WAC 296-155-533.

(3)(a) Cranes must meet the requirements for design, construction, installation and testing as prescribed in the applicable ASME standard at the time the crane or derrick was manufactured.

(b) Where manufacturer's specifications are not available the limitations assigned to the crane must be based on the determinations of a registered professional engineer (RPE), competent in this field and such determinations must be appropriately documented and recorded.

(c) Attachments used with cranes must not exceed the capacity, rating, or scope recommended by the manufacturer or RPE.

(4) Unavailable operation procedures.

(a) Where the manufacturer procedures are unavailable, the employer must ((~~provide~~)) develop and ensure compliance with all procedures necessary for the safe operation of the crane/derrick and attachments.

(b) Procedures for the operational controls must be developed by a qualified person.

(c) Procedures related to the capacity of the crane/derrick must be developed and signed by a registered professional engineer familiar with this equipment.

(5) Warning decals and placards must be installed and legible as prescribed by this part and the crane manufacturer.

(6) The procedures applicable to the operation of the crane/derrick including a legible and applicable operator's manual and load rating chart, written in the English language with customary grammar and punctuation, must be in the operator's cab or station when the crane is in operation. Where rated capacities are available in the cab only in electronic form: In the event of a failure which makes the rated capacities inaccessible, the operator must immediately cease operations or follow safe shut-down procedures until the rated capacities (in electronic or other form) are available.

(7) Rated capacity and related information. The information available in the operator's cab or station (see WAC 296-155-53400(6)) regarding "rated capacity" and related information must include, at a minimum, the following information:

(a) A complete range of the manufacturer's rated capacities, as follows:

(i) At all manufacturer approved operating radii, boom angles, work areas, boom lengths and configurations, jib lengths and angles (or offset).

(ii) Alternate ratings for use and nonuse of optional equipment which affects rated capacities, such as outriggers, stabilizers, and extra counterweights.

(iii) When available from the manufacturer load ratings where structural competence governs lifting performance must be identified.

(b) A work area chart for which capacities are listed in the load chart.

Note: An example of this type of chart for mobile cranes is in WAC 296-155-56435.

(c) The work area figure and load chart must clearly indicate the areas where no load is to be handled.

(d) Recommended reeving for the hoist lines must be shown.

(e) Recommended parts of hoist reeving, size, and type of wire rope for various crane loads.

(f) Recommended boom hoist reeving diagram, where applicable; size, type, and length of wire rope.

(g) Tire pressure (where applicable).

(h) Caution or warnings relative to limitations on cranes and operating procedures, including an indication of the least stable direction.

(i) Position of the gantry and requirements for intermediate boom suspension (where applicable).

(j) Instructions for boom erection and conditions under which the boom, or boom and jib combinations, may be raised or lowered.

(k) Whether the hoist holding mechanism is automatically or manually controlled, whether free fall is available, or any combination of these.

(l) The maximum telescopic travel length of each boom telescopic section.

(m) Whether sections are telescoped manually or with power.

(n) The sequence and procedure for extending and retracting the telescopic boom section.

(o) Maximum loads permitted during the boom extending operation, and any limiting conditions or cautions.

(p) Hydraulic relief valve settings specified by the manufacturer.

(8) All manufacturer procedures applicable to the operational functions of cranes/derricks, including its use with attachments must be complied with.

(9) The operator must not engage in any practice or activity that diverts his/her attention while actually engaged in operating the crane/derrick, such as the use of cellular phones (other than when used for signal communications).

(10) A portable fire extinguisher, with a basic minimum extinguisher rating of 10 BC, must be installed in the cab or at the machinery housing. Additional requirements relating to portable fire extinguishers can be found in WAC 296-800-300.

(11) Cabs. Cranes/derricks with cabs must meet the following requirements:

(a) Cabs must be designed with a form of adjustable ventilation and method for clearing the windshield for maintaining visibility and air circulation. Examples of means for adjustable ventilation include air conditioner or window that can be opened (for ventilation and air circulation); examples of means for maintaining visibility include heater (for preventing windshield icing), defroster, fan, windshield wiper.

(b) Cab doors (swinging, sliding) must be designed to prevent inadvertent opening or closing while traveling or operating the machine. Swinging doors adjacent to the operator must open outward. Sliding operator doors must open rearward.

(c) Windows.

(i) The cab must have windows in front and on both sides of the operator. Forward vertical visibility must be sufficient to give the operator a view of the boom point at all times.

(ii) Windows may have sections designed to be opened or readily removed. Windows with sections designed to be opened must be designed so that they can be secured to prevent inadvertent closure.

(iii) Windows must be of safety glass or material with similar optical and safety properties that introduce no visible distortion or otherwise obscure visibility that interferes with the safe operation of the equipment.

(d) A clear passageway must be provided from the operator's station to an exit door on the operator's side.

(e) Areas of the cab roof that serve as a workstation for rigging, maintenance, or other equipment-related tasks must be capable of supporting two hundred fifty pounds without permanent distortion.

(12) Personal belongings must be stored in such a manner as to not interfere with access or operation of the crane.

(13) Rigging gear, tools, oil cans, waste, and other articles must be stored in the toolbox or another appropriate location, and must not be permitted to lie loose in or about the cab or operator's work station.

(14) Operating controls must be properly marked to indicate the function of the controls in each position.

(15) The employer must designate a competent person who must inspect the cranes and components daily when used, and periodically during use to make sure it is in safe operating condition. Any deficiencies that effect the safe operation of the crane must be repaired, or defective parts replaced, before continued use.

Note: For additional requirements relating to inspections see WAC 296-155-53405.

(16) Before starting the engine, the operator must verify that all controls are in the proper starting position and that all personnel are in the clear.

(17) While in operation, belts, gears, shafts, pulleys, sprockets, spindles, drums, fly wheels, chains, or other reciprocating, rotating, or other moving parts or equipment must be guarded if such parts are exposed to contact by employees, or otherwise create a hazard. Guarding must meet the requirements of chapter 296-806 WAC, Machine safety.

(18) Neither the load nor the boom is allowed to be lowered below the point where less than two full wraps of rope remain on their respective drums.

(19) All exhaust pipes, turbochargers, and charge air coolers must be guarded or insulated in areas where contact by employees is possible in the performance of normal duties and are discharged in a direction away from the operator.

(20) Hydraulic and pneumatic lines must be protected from damage to the extent feasible.

(21) Friction mechanisms. Where friction mechanisms (such as brakes and clutches) are used to control the boom hoist or load line hoist, they must be:

(a) Of a size and thermal capacity sufficient to control all rated loads with the minimum recommended reeving.

(b) Adjustable to permit compensation for lining wear to maintain proper operation.

(22) Hydraulic load hoists. Hydraulic drums must have an integrally mounted holding device or internal static brake to prevent load hoist movement in the event of hydraulic failure.

(23) Whenever internal combustion engine powered crane/derrick exhausts in enclosed spaces, tests must be made and recorded to see that employees are not exposed to unsafe concentrations of toxic gases or oxygen deficient atmospheres. (See chapter 296-62 WAC, General occupational health standards and chapter 296-841 WAC, Airborne contaminants.)

(24) If access to the cab roof is necessary, a ladder or steps must be provided to give access to a cab roof.

(25) All steps, running boards, and ladders must be of substantial construction and in good repair at all times.

(26) Guardrails, handholds, and steps must be provided on cranes for easy access to the cab in accordance with Parts C-1 and J of this chapter.

(27) Platforms and walkways must have antiskid surfaces.

(28) Cranes/derricks fuel tank filler pipe must be located in such a position, or protected in such a manner, as to not allow spill or overflow to run onto the engine, exhaust, or electrical equipment of any crane being fueled. In addition, cranes/derricks must be refueled as follows:

(a) Make sure the engine is turned off before refueling.

(b) When refueling with gasoline using portable containers, make sure only an approved safety-type can with an automatic closing cap and flame arrester is used.

(c) Smoking or open flames is prohibited in the refueling area.

(29) Crane hook ball assemblies and load blocks.

(a) ((~~All crane hook ball assemblies and load blocks must be labeled with their rated capacity and their weight.~~)) Load hooks (including latched and unlatched types), ball assemblies, and load blocks must be of sufficient weight to overhaul the line from the highest hook position for boom or boom and jib lengths and the number of parts of the line in use.

(b) Crane hooks must be equipped with latches or self-locking devices unless a qualified person determines that it is safer to hoist and place the load without latches (or with the latches removed/tied back((~~).~~)) or otherwise disabled) and routes for the loads are preplanned to ensure that no employee is required to work in the fall zone except for employees necessary for the hooking or unhooking of the load.

(c) The latch or self-locking device (when used) must bridge the throat opening of the hook for the purpose of retaining slings or other lifting devices under slack conditions.

(30) Repair or replace a hook when it shows:

(a) Any cracks, nicks, or gouges.

(b) Wear of more than ten percent of the original sectional dimension, or as recommended by the manufacturer.

(c) Any visibly apparent bend or twist from the plane of the unbent hook.

(d) Any distortion causing an increase in the throat opening of five percent, not to exceed one-fourth inch or as recommended by the manufacturer.

(e) Repair or replace hook latches or self-locking devices when they become inoperative.

(31) A qualified person must determine if a damaged hook needs to be replaced or can be repaired.

(32) When repairing a hook, the requirements below must be followed:

(a) Unless otherwise recommended by the manufacturer, only a qualified person can repair cracks, nicks and gouges by grinding longitudinally, following the contour of the hook.

Note: The dimension of the hook cannot be reduced more than ten percent of its original value, unless otherwise recommended by the manufacturer.

(b) All other repairs must be performed by the hook manufacturer or the qualified person.

(c) Weld repairs or reshaping must not be performed on hooks, unless approved by the manufacturer.

(33) Replacement parts, such as load pins for clevis hooks must be at least equal to the original manufacturer's specifications.

Note: For requirements relating to wedge sockets, see WAC 296-155-56115(2).

(34) Before traveling a crane with a load, it must be determined that this practice is not prohibited by the manufacturer. If not, a qualified person must be responsible for the operation. Decisions such as the necessity to reduce crane ratings, load position, boom location, ground support, travel route, and speed of movement must be in accordance with that person's determination. Specified tire pressure must be maintained. The boom should be carried in line with the direction of travel. Sudden starts and stops should be avoided.

(35) The crane/derrick must not be assembled or used unless ground conditions are firm, drained, and graded to a sufficient extent as determined by a competent person, so that, in conjunction (if necessary) with the use of supporting materials, the crane/derrick manufacturer's specifications for adequate support and degree of level of the crane/derrick are met. The requirement for the ground to be drained does not apply to marshes/wetlands. For additional requirements for self-erecting tower cranes, see WAC 296-155-54100.

(36) The controlling entity must:

(a) Ensure that ground preparations necessary to meet the requirements in subsection (35) of this section are provided.

(b) Inform the user of the crane/derrick and the operator of the location of hazards beneath the crane/derrick set-up area (such as voids, tanks, utilities) if those hazards are identified in documents (such as site drawings, as-built drawings, and soil analyses) if they are available to the controlling entity that are in the possession of the controlling entity (whether at the site or off-site) or the hazards are otherwise known to that controlling entity.

(37) If there is no controlling entity for the project, the requirement in subsection (36)(a) of this section must be met by the employer that has authority at the site to make or arrange for ground preparations needed to meet subsection (35) of this section.

(38) If the assembly/disassembly director or the operator determines that ground conditions do not meet the requirements in subsection (35) of this section, that person's employer must have a discussion with the controlling entity regarding the ground preparations that are needed so that, with the use of suitable supporting materials/devices (if necessary), the requirements in subsection (35) of this section can be met.

(39) This section does not apply to cranes designed for use on railroad tracks when used on railroad tracks that are part of the general railroad system of transportation that is regulated pursuant to the Federal Railroad Administration under 49 C.F.R. Part 213, and that comply with applicable Federal Railroad Administration requirements.

(40) Multiple crane/derrick coordination. Where any part of a crane/derrick is within the working radius of another crane/derrick, the controlling entity must institute a system to coordinate operations. If there is no controlling entity, the employer (if there is only one employer operating the multiple pieces of equipment), or employers, must institute such a system.

(41) Multiple crane or multiple load line lifts.

(a) Plan development. Before beginning a crane/derrick operation in which more than one crane/derrick will be supporting the load or multiple load lines on one crane will be supporting the load, the operation must be planned. The planning must meet the following requirements:

(i) The plan must be developed by a qualified person.

(ii) The plan must be designed to ensure that the requirements of this part are met.

(iii) Where the qualified person determines that engineering expertise is needed for the planning, the employer must ensure that it is provided.

(b) Plan implementation.

(i) The multiple-crane/derrick lift or multiple load line lifts must be directed by a person who meets the criteria for both a competent person and a qualified person, or by a competent person who is assisted by one or more qualified persons (lift director).

(ii) The lift director must review the plan in a meeting with all workers who will be involved with the operation.

(42) Work area control. Swing radius hazards.

(a) The requirements in (b) of this subsection apply where there are accessible areas in which the crane's rotating superstructure (whether permanently or temporarily mounted) poses a reasonably foreseeable risk of:

(i) Striking and injuring an employee; or

(ii) Pinching/crushing an employee against another part of the crane or another object.

(b) To prevent employees from entering these hazard areas, the employer must:

(i) Train each employee assigned to work on or near the crane (authorized personnel) in how to recognize struck-by and pinch/crush hazard areas posed by the rotating superstructure.

(ii) Erect and maintain control lines, warning lines, railings or similar barriers to mark the boundaries of the hazard areas.

Exception: When the employer can demonstrate that it is neither feasible to erect such barriers on the ground nor on the crane, the hazard areas must be clearly marked by a combination of warning signs (such as Danger-Swing/Crush Zone) and high visibility markings on the crane that identify the hazard areas. In addition, the employer must train each employee to understand what these markings signify.

(c) Protecting employees in the hazard area.

(i) Before an employee goes to a location in the hazard area that is out of view of the operator, the employee (or someone instructed by the employee) must ensure that the operator is informed that he/she is going to that location.

(ii) Where the operator knows that an employee went to a location covered by subsection (43)(c)(i) of this section, the operator must not rotate the superstructure until the operator is informed in accordance with a prearranged system of communication that the employee is in a safe position.

(d) Where any part of a crane/derrick is within the working radius of another crane/derrick, the controlling entity must institute a system to coordinate operations. If there is no controlling entity, the employer (if there is only one employer operating the multiple pieces of equipment), or employers, must institute such a system.

(43) Keeping clear of the load.

(a) Where available, hoisting routes that minimize the exposure of employees to hoisted loads must be used to the extent consistent with public safety.

(b) While the operator is not moving a suspended load, no employee is allowed to be within the fall zone, except for employees:

(i) Engaged in hooking, unhooking or guiding a load; or

(ii) Engaged in the initial attachment of the load to a component structure; or

(iii) Operating a concrete hopper or concrete bucket.

(c) When employees are engaged in hooking, unhooking, or guiding the load, or in the initial connection of a load to a component or structure, and are within the fall zone, all of the following criteria must be met:

(i) The materials being hoisted must be rigged to prevent unintentional displacement.

(ii) Hooks with self-closing latches or their equivalent must be used, see subsection (29)(b) of this section. "J" hooks are permitted to be used for setting wooden trusses.

(iii) The materials must be rigged by a qualified rigger.

(d) Receiving a load. Only employees needed to receive a load are permitted to be within the fall zone when a load is being landed.

(e) During a tilt-up or tilt-down operation:

(i) Employees are not allowed to be directly under the load.

(ii) Only employees' essential to the operation are allowed to be in the fall zone (but not directly under the suspended load).

Note: An employee is essential to the operation if the employee is conducting one of the following operations and the employer can demonstrate it is infeasible for the employee to perform that operation from outside the fall zone:
- Physically guide the load;
- Closely monitor and give instructions regarding the load's movement; or
- Either detach it from or initially attach it to another component or structure (such as, but not limited to, making an initial connection or installing bracing).

(f) Boom free fall is prohibited when an employee is in the fall zone of the boom or load, and load line free fall is prohibited when an employee is directly under the load. See subsections (44) through (47) of this section.

(44) Boom free fall prohibitions.

(a) The use of cranes in which the boom is designed to free fall (live boom) is prohibited in each of the following circumstances:

(i) An employee is in the fall zone of the boom or load.

(ii) An employee is being hoisted.

(iii) The load or boom is directly over a power line, or over any part of the area listed in Table 4 located in WAC 296-155-53408, clearance distance to each side of the power line; or any part of the area extending the Table 4 clearance distance to each side of the power line is within the radius of vertical travel of the boom or the load.

(iv) The load is over a shaft, except where there are no employees in the shaft.

(v) The load is over a cofferdam, except where there are no employees in the fall zone of the boom or the load.

(vi) Lifting operations are taking place in a refinery or tank farm.

(b) The use of cranes in which the boom is designed to free fall (live boom) is permitted only where none of the circumstances listed in (a) of this subsection are present and:

(i) The crane was manufactured prior to October 31, 1984; or

(ii) The crane is a floating crane or a land crane on a vessel/flotation device.

(45) Preventing boom free fall. Where the use of a crane with a boom that is designed to free fall (live boom) is prohibited (see subsection (44)(a) of this section), the boom hoist must have a secondary mechanism or device designed to prevent the boom from falling in the event the primary system used to hold or regulate the boom hoist fails, as follows:

(a) Friction drums must have:

(i) A friction clutch and, in addition, a braking device, to allow for controlled boom lowering.

(ii) A secondary braking or locking device, which is manually or automatically engaged, to back-up the primary brake while the boom is held (such as a secondary friction brake or a ratchet and pawl device).

(b) Hydraulic drums must have an integrally mounted holding device or internal static brake to prevent boom hoist movement in the event of hydraulic failure.

(c) Neither clutches nor hydraulic motors must be considered brake or locking devices for purposes of this part.

(d) Hydraulic boom cylinders must have an integrally mounted holding device.

(46) Preventing uncontrolled retraction. Hydraulic telescoping booms must have an integrally mounted holding device to prevent the boom from retracting in the event of hydraulic failure.

(47) Load line free fall. In each of the following circumstances, controlled load lowering is required and free fall of the load line hoist is prohibited:

(a) An employee is directly under the load.

(b) An employee is being hoisted.

(c) The load is directly over a power line, or over any part of the area listed in Table 4, located in WAC 296-155-53408, clearance distance to each side of the power line; or any part of the area extending the Table 4 of WAC 296-155-53408, clearance distance to each side of the power line is within the radius of vertical travel of the load.

(d) The load is over a shaft.

(e) The load is over a cofferdam, except where there are no employees in the fall zone of the load.

(48) Employees must not be allowed to ride on the hook or load.

(49) The hoist rope must not be wrapped around the load.

(50) All loads must be attached to the hook by means of suitable slings or other devices of sufficient lifting capacity.

(51) When moving a load it must be well secured and balanced in the sling or lifting device before it is lifted more than a few inches.

(52) Leaving the crane/derrick unattended. The operator must not leave the controls while the load is suspended, except where all of the following are met:

(a) The operator remains adjacent to the crane/derrick and is not engaged in any other duties.

(b) The load is to be held suspended for a period of time exceeding normal lifting operations.

(c) The competent person determines that it is safe to do so and implements measures necessary to restrain the boom hoist and telescoping, load, swing, and outrigger or stabilizer functions.

(d) Barricades or caution lines, and notices, are erected to prevent all employees from entering the fall zone. No employees, including those listed in subsection (43)(b), (d), and (e) of this section, are permitted in the fall zone.

Exemption: The provisions in this section do not apply to working gear (such as slings, spreader bars, ladders, and welding machines) where the weight of the working gear is negligible relative to the lifting capacity of the equipment as positioned, and the working gear is suspended over an area other than an entrance or exit.

Note: For additional requirements relating to leaving the crane unattended for tower, self-erecting, overhead/bridge and derricks see:
- WAC 296-155-53915, Tower cranes—Operations;
- WAC 296-155-54115, Self-erecting tower cranes—Operations;
- WAC 296-155-54215, Overhead/bridge cranes and gantry cranes—Operations;
- WAC 296-155-54320, Derricks—Operations.

(53) While moving the load the lift and swing path must be clear of obstructions.

(54) Before starting to lift the following conditions must be met:

(a) The hoist rope must not be kinked.

(b) Multiple-part lines must not be twisted around each other.

(c) The hook must be brought over the load in such a manner as to minimize swinging.

(d) If the competent person determines that there is slack rope condition requiring respooling of the rope, it must be ((~~determined~~)) verified (before starting the lift) that the rope is seated on the drum and in the sheaves as the slack is removed.

(e) The competent person must adjust the crane/derrick and/or operations to address the effect of wind, ice, and snow on equipment stability and rated capacity.

(f) If possible, the load must be free to be lifted; it is neither caught nor attached to other objects.

(55) During lifting operations, care must be taken that there is no sudden acceleration or deceleration of the moving load and that the load boom or other parts of the crane do not contact any obstruction. Rotational speed of the crane/derrick must be such that the load does not swing out beyond the radius at which it can be controlled.

(56) Side loading of booms (jibs) must be limited to freely suspended loads. Cranes must not be used for dragging loads sideways.

(57) The operator must test the brakes each time a load that is ninety percent or more of the maximum line pull is handled by lifting the load a few inches and applying the brakes. In duty cycle and repetitive lifts where each lift is ninety percent or more of the maximum line pull, this requirement applies to the first lift but not to successive lifts.

(58) Modifications or additions which affect the capacity or safe operation of the crane/derrick are prohibited except where the requirements of (a) or (b) of this subsection are met. For recertification requirements see WAC 296-155-53214 (1)(c).

(a) Manufacturer review and approval.

(i) The manufacturer approves the modifications/additions in writing.

(ii) The load charts, procedures, instruction manuals and instruction plates/tags/decals are modified as necessary to accord with the modification/addition.

(iii) The original safety factor of the crane/derrick is not reduced.

(b) Where manufacturer is unavailable or has refused to review a request. The manufacturer is provided a detailed description of the proposed modification/addition, is asked to approve the modification/addition, but it declines to review the technical merits of the proposal or fails, within thirty days, to acknowledge the request or initiate the review, and all of the following are met:

(i) A registered professional engineer who is a qualified person with respect to the crane/derrick involved:

(A) Approves the modification/addition and specifies the crane/derrick configurations to which that approval applies; and

(B) Modifies load charts, procedures, instruction manuals and instruction plates/tags/decals as necessary to accord with the modification/addition.

(ii) The original safety factor of the crane/derrick is not reduced.

(c) Manufacturer does not complete the review within one hundred twenty days of the request. The manufacturer is provided a detailed description of the proposed modification/addition, is asked to approve the modification/addition, agrees to review the technical merits of the proposal, but fails to complete the review of the proposal within one hundred twenty days of the date it was provided the detailed description of the proposed modification/addition, and the requirements of subsection (58)(b)(i) and (ii) of this section are met.

(d) Multiple manufacturers of equipment designed for use on marine worksites. The equipment is designed for marine worksites, contains major structural components from more than one manufacturer, and the requirements of subsection (58)(b)(i) and (ii) of this section are met.

(59) No modifications or additions which affect the capacity or safe operation of the crane can be made by the employer without the manufacturers' written approval. If components of more than one crane manufacturer are being combined, the employer must obtain written approval from all manufacturers prior to use. If the manufacturer(s) is/are not available a registered professional structural engineer's (RPSE) written approval must be obtained. If such modifications or changes are made, the capacity, operation, and maintenance instruction plates, tags, or decals, must be changed accordingly. In no case must the original safety factor of the crane be reduced.

Note: The provisions in subsections (58) and (59) of this section do not apply to modifications made or approved by the U.S. military.

(60) All applicable controls must be tested by the operator at the start of a new shift, if possible. If any controls fail to operate properly, they must be adjusted or repaired before operations are initiated.

(61) Except for proof load testing required under WAC 296-155-53202 through 296-155-53212, no crane/derrick is permitted to be loaded beyond the specifications of the load rating chart, unless authorized by the crane manufacturer. The operator must not be required to operate the crane/derrick in a manner that would violate this requirement.

(62) Load weight. The operator must verify that the load is within the rated capacity of the crane/derrick by at least one of the following methods:

(a) The weight of the load must be determined from a reliable source recognized by the industry (such as the load's manufacturer), or by a reliable calculation method recognized by the industry (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. In addition, when requested by the operator, this information must be provided to the operator prior to the lift; or

(b) The operator must begin hoisting the load to determine, using a load weighing device, load moment indicator, rated capacity indicator, or rated capacity limiter. If the load exceeds seventy-five percent of the maximum rated capacity at the longest radius that will be used during the lift operation, the operator must not proceed with the lift until it is verified that the weight of the load is in accordance with (a) of this subsection.

(63) Tag lines or restraint lines must be used when rotation or swinging of the load is hazardous or if the load needs guidance. Tag lines are not required when all of the following criteria are met:

• The suspended load can be expected to remain still when in a static (nonmoving) condition or does not swing or rotate in a hazardous manner;

• The movement of the crane or boom cannot be expected to cause the load to swing or rotate in an uncontrolled manner that may create a hazard;

• The operator is in control of the movement of the load and a hazardous condition is not created.

(64) All brakes must be adjusted in accordance with manufacturer procedures to prevent unintended movement.

(65) Safety devices and/or operational aids must not be used as a substitute for the exercise of professional judgment by the operator.

((~~(65)~~)) (66) Storm warning. When a local storm warning has been issued, the competent person must determine whether it is necessary to implement manufacturer recommendations for securing the crane/derrick.

((~~(66)~~)) (67) Whenever there is a concern as to safety, the operator has the authority to stop and refuse to handle loads until a qualified person has determined that safety has been assured.

((~~(67)~~)) (68) Tag-out.

(a) Tagging out of service. Where the employer has taken the crane/derrick out of service, a tag must be placed in the cab or at the operator station stating that the equipment is out of service and is not to be used. Where the employer has taken a function(s) out of service, a tag must be placed in a conspicuous position stating that the function is out of service and is not to be used.

(b) Response to do not operate/tag-out signs.

(i) If there is a warning (tag-out or maintenance/do not operate) sign on the crane/derrick or starting control, the operator must not activate the switch or start the crane/derrick until the sign has been removed by a person authorized to remove it, or until the operator has verified that:

(A) No one is servicing, working on or otherwise in a dangerous position around the machine.

(B) The crane/derrick has been repaired and is working properly.

(ii) If there is a warning (tag-out or maintenance/do not operate) sign on any other switch or control, the operator must not activate that switch or control until the sign has been removed by a person authorized to remove it, or until the operator has verified that the requirements in (b)(i)(A) and (B) of this subsection have been met.

Note: For additional lockout/tagout procedures for electrical circuits, see WAC 296-155-429.

(((~~68~~))) (69) If crane/derrick adjustments or repairs are necessary:

(a) The operator must, in writing, promptly inform the person designated by the employer to receive such information and, where there are successive shifts, to the next operator; and

(b) The employer must notify all affected employees, at the beginning of each shift, of the necessary adjustments or repairs and all alternative measures.

(((~~69~~))) (70) All cranes and derricks mounted on barges or other floating structures must meet the requirements as outlined in ASME B30.8-2004 for construction, installation, inspection, maintenance and operation.

(((~~70~~))) (71) Swinging locomotive cranes. A locomotive crane must not be swung into a position where railway cars on an adjacent track could strike it, until it is determined that cars are not being moved on the adjacent track and that proper flag protection has been established.

(((~~71~~))) (72) Remote control cranes/derricks. Before an operator leaves the crane/derrick to operate remotely, the operator must ensure that the crane/derrick will be used in accordance with the manufacturer's recommendations. Provisions must be made to prevent simultaneous activation of controls when more than one control station (remote control) is provided.

(((~~72~~))) (73) Remote-operated cranes/derricks must function so that if the control signal for any crane/derrick motion becomes ineffective, the crane/derrick motion must stop.

(((~~73~~))) (74) Remote-operated cranes/derricks must be equipped with an "emergency stop" system, located at the operator's remote station to provide the means to remove power from the crane in the event of a malfunction.

(((~~74~~))) (75) A preventative maintenance program must be established based on the recommendation of the crane/derrick manufacturer. If manufacturer's recommendations are not available, then those of a qualified person must be followed. Dated records must be kept available.

(((~~75~~))) (76) Working with a diver. The employer must meet the following additional requirements when working with a diver in the water:

(a) If a crane/derrick is used to get a diver into and out of the water, it must not be used for any other purpose until the diver is removed from the water. When used for more than one diver, it must not be used for any other purpose until all divers are all out of the water.

(b) The operator must remain at the controls of the crane/derrick at all times.

(c) In addition to the requirements in WAC 296-155-53406, Signals, either:

(i) A clear line of sight must be maintained between the operator and dive tender; or

(ii) The signals between the operator and dive tender must be transmitted electronically.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53402 Assembly/disassembly. (1) When assembling and disassembling crane/derrick (or attachments), the employer must comply with all applicable manufacturer prohibitions and must comply with either:

(a) Manufacturer procedures applicable to assembly and disassembly; or

(b) Employer procedures for assembly and disassembly. Employer procedures may be used only where the employer can demonstrate that the procedures used meet the requirements in subsection (17) of this section.

Note: The employer must follow manufacturer procedures when an employer uses synthetic slings during assembly or disassembly of cranes/derricks, see subsection (19) of this section.

(2) Supervision - Competent/qualified person.

(a) Assembly/disassembly must be directed by a person who meets the criteria for both a competent person and a qualified person, or by a competent person who is assisted by one or more qualified persons (assembly/disassembly director).

(b) Where the assembly/disassembly is being performed by only one person, that person must meet the criteria for both a competent person and a qualified person. For purposes of this part, that person is considered the assembly/disassembly director.

(3) Knowledge of procedures. The assembly/disassembly director must understand the applicable assembly/disassembly procedures.

(4) Review of procedures. The assembly/disassembly director must review the applicable assembly/disassembly procedures immediately prior to the commencement of assembly/disassembly unless the assembly/disassembly director has applied them to the same type and configuration of crane/derrick (including accessories, if any).

(5) Preassembly inspection.

(a) Prior to assembling crane/derrick components or attachments the assembly/disassembly director must inspect these components and attachments to ensure that they meet the manufacturer's recommendations. This inspection must include a visual inspection to ensure that the components and attachments are of sound physical condition and functional within the manufacturer's recommendations.

(b) Documentation of this inspection must remain at the job site while the crane/derrick is in use.

(6) Crew instructions.

(a) Before commencing assembly/disassembly operations, the assembly/disassembly director must ensure that the crew members understand the following:

(i) Their tasks;

(ii) The hazards associated with their tasks;

(iii) The hazardous positions/locations that they need to avoid.

(b) During assembly/disassembly operations, before a crew member takes on a different task, or when adding new personnel during the operations, the requirements in (a)(i) through (iii) of this subsection must be met.

(7) Protecting assembly/disassembly crew members out of operator view.

(a) Before a crew member goes to a location that is out of view of the operator and is either: In, on, under, or near the crane/derrick (or load) where the crew member could be injured by movement of the crane/derrick (or load), the crew member must inform the operator that they are going to that location.

(b) Where the operator knows that a crew member went to a location covered by (a) of this subsection, the operator must not move any part of the crane/derrick (or load) until the operator is informed in accordance with a prearranged system of communication that the crew member is in a safe position.

(8) Working under the boom, jib or other components.

(a) When pins (or similar devices) are being removed, employees must not be under the boom, jib, or other components, except where the requirements in (b) of this subsection are met.

(b) Exception. Where the employer demonstrates that site constraints require one or more employees to be under the boom, jib, or other components when pins (or similar devices) are being removed, the assembly/disassembly director must implement procedures that minimize the risk of unintended dangerous movement and minimize the duration and extent of exposure under the boom. (See WAC 296-155-56430, Assembly/disassembly—Working under the boom, jib or other components—Sample procedures for minimizing the risk of unintended dangerous boom movement.)

(9) Capacity limits. During all phases of assembly/disassembly, rated capacity limits for loads imposed on the crane/derrick, components (including rigging), lifting lugs and crane/derrick accessories must not be exceeded.

(10) Addressing specific hazards. The assembly/disassembly director supervising the assembly/disassembly operation must address the hazards associated with the operation, which include:

(a) Site and ground bearing conditions. Site and ground conditions must be adequate for safe assembly/disassembly operations and to support the crane/derrick during assembly/disassembly (see WAC 296-155-53400 (34) through (38) for ground condition requirements).

(b) Blocking material. The size, amount, condition and method of stacking blocking must be sufficient to sustain the loads and maintain stability.

(c) Proper location of blocking. When used to support lattice booms or components, blocking must be appropriately placed to:

(i) Protect the structural integrity of the crane/derrick; and

(ii) Prevent dangerous movement and collapse.

(d) Verifying assist crane loads. When using an assist crane, the loads that will be imposed on the assist crane at each phase of assembly/disassembly must be verified in accordance with WAC 296-155-53400(61) before assembly/disassembly begins.

(e) Boom and jib pick points. The point(s) of attachment of rigging to a boom (or boom sections or jib or jib sections) must be suitable for preventing structural damage and facilitating safe handling of these components.

(f) Center of gravity.

(i) The center of gravity of the load must be identified if it is necessary for the method used for maintaining stability.

(ii) Where there is insufficient information to accurately identify the center of gravity, measures designed to prevent unintended dangerous movement resulting from an inaccurate identification of the center of gravity must be used. (See WAC 296-155-56430, Assembly/disassembly—Working under the boom, jib or other components—Sample procedures for minimizing the risk of unintended dangerous boom movement.)

(g) Stability upon pin removal. The boom sections, boom suspension systems (such as gantry A-frames and jib struts), and components must be rigged or supported to maintain stability upon the removal of the pins.

(h) Snagging. Suspension ropes and pendants must not be allowed to catch on the boom or jib connection pins or cotter pins (including keepers and locking pins).

(i) Struck by counterweights. The potential for unexpected movement from inadequately supported counterweights and from hoisting counterweights.

(j) Boom hoist brake failure. Each time reliance is to be placed on the boom hoist brake to prevent boom movement during assembly/disassembly, the brake must be tested prior to such reliance to determine if it is sufficient to prevent boom movement. If it is not sufficient, a boom hoist pawl, other locking device/back-up braking device, or another method of preventing dangerous movement of the boom (such as blocking or using an assist crane) from a boom hoist brake failure must be used.

(k) Loss of backward stability. Backward stability before swinging the upperworks, travel, and when attaching or removing crane/derrick components.

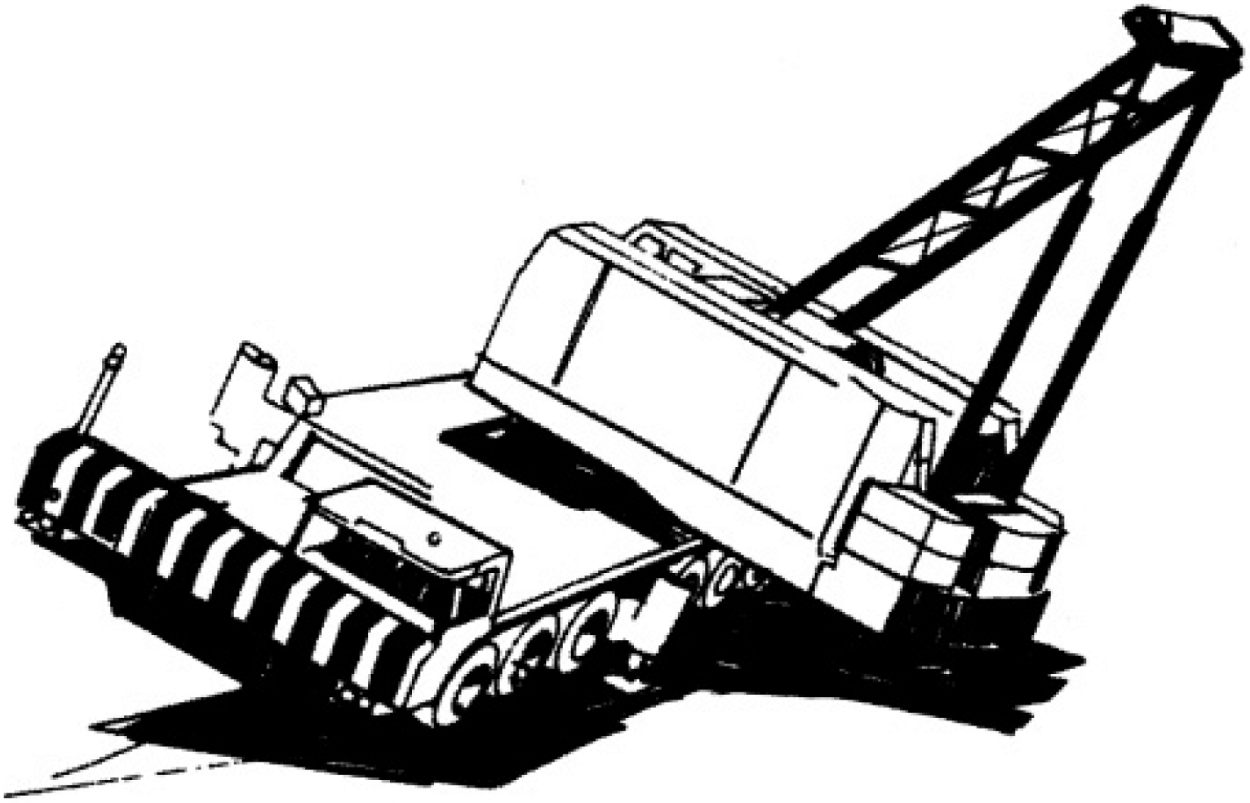


Figure 2. Lack of backward stability results in superstructure toppling.

(l) Wind speed and weather. The effect of wind speed and weather on the crane/derrick.

(11) Cantilevered boom sections. Manufacturer limitations on the maximum amount of boom supported only by cantilevering must not be exceeded. Where these are unavailable, a registered professional engineer familiar with the type of crane/derrick involved must determine this limitation in writing, which must not be exceeded.

(12) Weight of components. The weight of each of the components must be readily available.

(13) Components and configuration.

(a) The selection of components and configuration of the crane/derrick that affect the capacity or safe operation of this equipment must be in accordance with:

(i) Manufacturer's instructions, prohibitions, limitations, and specifications. Where these are unavailable, a registered professional engineer familiar with the type of crane/derrick involved must approve, in writing, the selection and configuration of components; or

(ii) Approved modifications that meet the requirements of WAC 296-155-53400 (58) and (59) (crane/derrick modifications).

(b) Post-assembly inspection. Upon completion of assembly, the crane/derrick must be inspected by the assembly/disassembly director to ensure compliance with (a) of this subsection and as follows:

(i) Upon completion of assembly, the crane/derrick must be inspected by a qualified person to assure that it is configured in accordance with manufacturer's criteria. For tower cranes, this inspection must be done by an accredited crane certifier.

(ii) Where manufacturer's criteria is unavailable, a qualified person must determine if a registered professional engineer (RPE) familiar with the type of crane/derrick involved is needed to develop criteria for the configuration. If an RPE is not needed, the employer must ensure that the criteria are developed by the qualified person. If an RPE is needed, the employer must ensure that they are developed by an RPE.

(c) Crane/derrick must not be used until an inspection demonstrates that it is configured in accordance with the applicable criteria.

(d) Documentation of this inspection must remain at the job site while the crane/derrick is in use.

(14) Shipping pins. Reusable shipping pins, straps, links, and similar equipment must be removed. Once they are removed they must either be stowed or otherwise stored so that they do not present a falling object hazard.

(15) Pile driving. Cranes used for pile driving must not have a jib attached during pile driving operations.

(16) The following are additional requirements for dismantling of booms and jibs, including dismantling for changing the length of booms and jibs (applies to both the use of manufacturer procedures and employer procedures):

(a) None of the pins in the pendants are to be removed (partly or completely) when the pendants are in tension. See, for example, Figure 3.

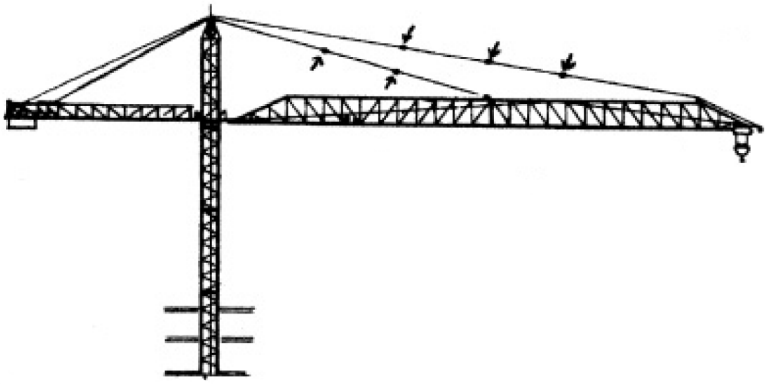


Figure 3. Pins (indicated by arrows) are not to be removed while pendants remain in tension.

(b) None of the pins (top and bottom) on boom sections located between the pendant attachment points and the crane/derrick body are to be removed (partly or completely) when the pendants are in tension. See, for example, Figures 4 and 5.

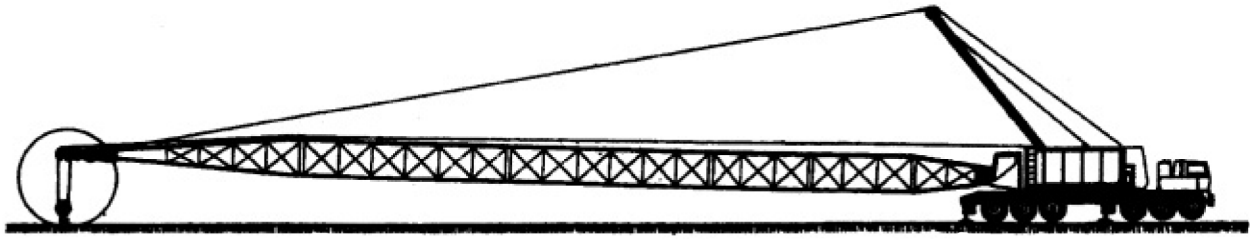


Figure 4. Pendant is in tension while connected to uppermost boom section, and no pins are to be removed.

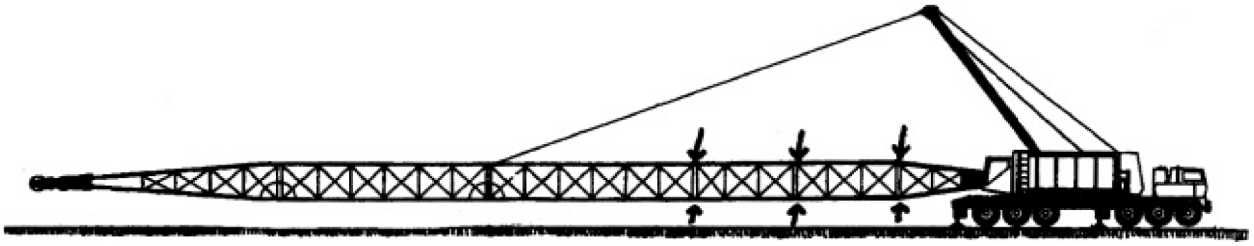


Figure 5. Pendant is in tension, and pins between pendant attachment point and crane body (indicated by arrows) are not to be removed. Note that, because the cantilevered portion of the boom is not supported, only the bottom pins ahead of the pendant may be removed. See Figure 8.

(c) None of the pins (top and bottom) on boom sections located between the uppermost boom section and the crane/derrick body are to be removed (partly or completely) when the boom is being supported by the uppermost boom section resting on the ground (or other support). See, for example, Figure 6.

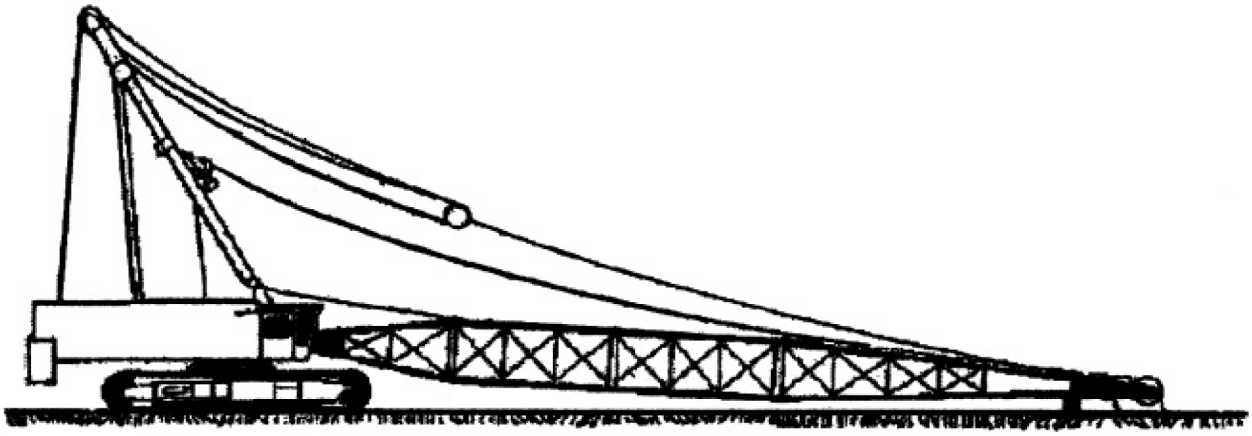


Figure 6. Uppermost boom section is resting on ground, and no pins between uppermost boom section and crane body are to be removed.

(d) None of the top pins on boom sections located on the cantilevered portion of the boom being removed (the portion being removed ahead of the pendant attachment points) are to be removed (partly or completely) until the cantilevered section to be removed is fully supported. See, for example, Figures 7 and 8.

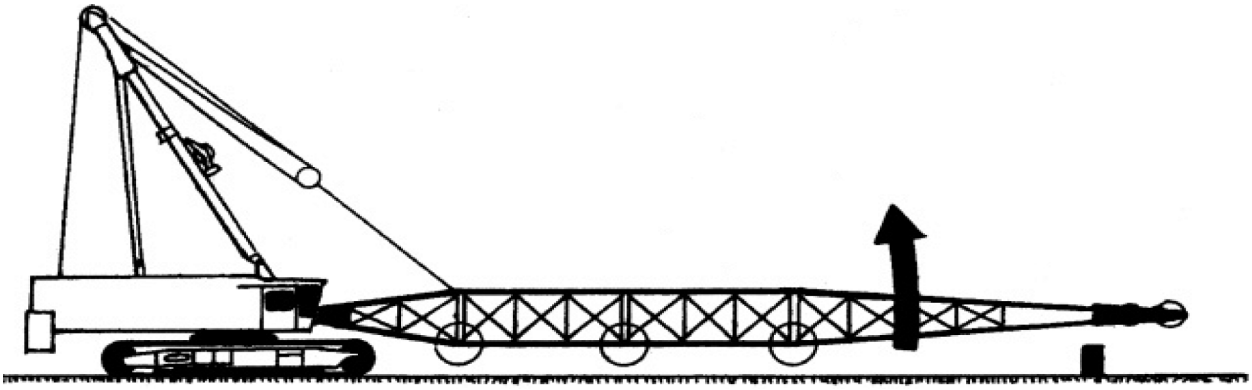


Figure 7. Cantilevered portion of boom is not supported, and top pins therefore are not to be removed. Bottom pins (circled) may be removed.

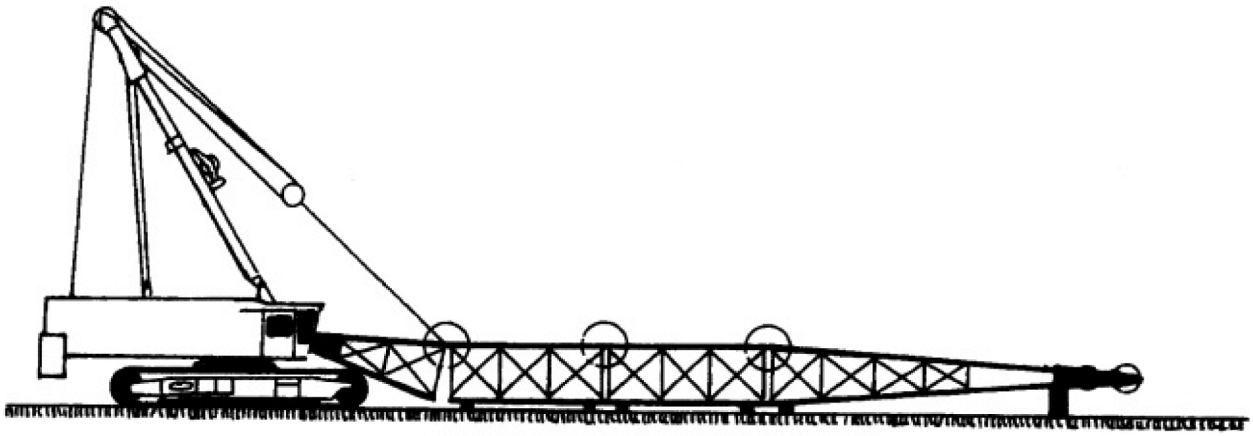


Figure 8. Cantilevered portion of boom is supported, and top pins (circled) may therefore be removed.

(17) When using employer procedures instead of manufacturer procedures for assembling or disassembling, the employer must ensure that the procedures are designed to:

(a) Prevent unintended dangerous movement, and to prevent collapse, of any parts of the crane/derrick.

(b) Provide adequate support and stability of all parts of the crane/derrick during the assembly/disassembly process.

(c) Position employees involved in the assembly/disassembly operation so that their exposure to movement or collapse is minimized.

(d) Qualified person. Employer procedures must be developed by a qualified person.

(18) Outriggers and stabilizers. When the load to be handled and the operating radius require the use of outriggers or stabilizers, or at any time when outriggers or stabilizers are used, the following requirements must be met:

(a) The outriggers or stabilizers must be either fully extended or, if manufacturer procedures permit, deployed as specified in the load chart.

(b) The outriggers must be set to remove the crane weight from the wheels, except for locomotive cranes (see (f) of this subsection for use of outriggers on locomotive cranes). This provision does not apply to stabilizers.

(c) When outrigger floats are used, they must be attached to the outriggers. When stabilizer floats are used they must be attached to the stabilizers.

(d) Each outrigger or stabilizer must be visible to the operator or to a signal person during extension and setting.

(e) Outrigger and stabilizer blocking must:

(i) Meet the requirements in subsection (9)(b) and (c) of this section.

(ii) Be placed only under the outrigger or stabilizer float/pad of the jack or, where the outrigger or stabilizer is designed without a jack, under the outer bearing surface of the extended outrigger or stabilizer beam.

(f) For locomotive cranes, when using outriggers or stabilizers to handle loads, the manufacturer's procedures must be followed. When lifting loads without using outriggers or stabilizers, the manufacturer's procedures must be met regarding truck wedges or screws.

(19) Rigging. In addition to the following requirements in WAC 296-155-556, 296-155-558, 296-155-560 and 296-155-562 and other requirements in this and other standards applicable to rigging, when rigging is used for assembly/disassembly, the employer must ensure that:

(a) The rigging work is done by a qualified rigger. See WAC 296-155-53306.

(b) Synthetic slings are protected from: Abrasive, sharp or acute edges, and configurations that could cause a reduction of the sling's rated capacity, such as distortion or localized compression. See WAC 296-155-55815(6), 296-155-55820(6) and 296-155-55825(6).

Note: Requirements for the protection of wire rope slings are contained in WAC 296-155-55805.

(c) When synthetic slings are used, the synthetic sling manufacturer's instructions, limitations, specifications and recommendations must be followed.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53403 Fall protection. (1) Application.

(a) Subsections (2), (3)(b), (5) and (6) of this section apply to all cranes/derricks covered by this part except tower cranes.

(b) Subsections (3)(a), (4), (7), (10) and (11) of this section apply to all cranes/derricks covered by this part.

(c) Subsections (3)(c) and (9) of this section apply only to tower cranes.

(2) Boom walkways.

(a) Cranes/derricks manufactured after the effective date of this section with lattice booms must be equipped with walkways on the boom(s) if the vertical profile of the boom (from cord centerline to cord centerline) is six or more feet.

(b) Boom walkway criteria ((~~must meet manufacturer's specifications after the effective date of this section~~)). The walkways must be at least twelve inches wide.

(3) Steps, handholds, ladders, grabrails, guardrails and railings.

(a) All steps, handholds, ladders and guardrails/railings/grabrails must be maintained in good condition.

(b) Cranes/derricks manufactured after the effective date of this section must be equipped so as to provide safe access and egress between the ground and the operator work station(s), including the forward and rear positions, by the provision of devices such as steps, handholds, ladders, and guardrails/railings/grabrails. These devices must meet the following criteria:

(i) Steps, handholds, ladders and guardrails/railings/grabrails must meet the criteria of SAE J185 (May 2003) or ISO 11660-2:1994(E) except where infeasible.

(ii) Walking/stepping surfaces, except for crawler treads, must have slip-resistant features/properties (such as diamond plate metal, strategically placed grip tape, expanded metal, or slip-resistant paint).

(c) Tower cranes manufactured after the effective date of this section must be equipped so as to provide safe access and egress between the ground and the cab, machinery platforms, and tower (mast), by the provision of devices such as steps, handholds, ladders, and guardrails/railings/grabrails. These devices must meet the following criteria:

(i) Steps, handholds, ladders, and guardrails/railings/grabrails must meet the criteria of ISO 11660-1:2008(E) and ISO 11660-3:2008(E) or SAE J185 (May 2003) except where infeasible.

(ii) Walking/stepping surfaces must have slip-resistant features/properties (such as diamond plate metal, strategically placed grip tape, expanded metal, or slip-resistant paint).

(4) Personal fall arrest and fall restraint systems must conform to the criteria in WAC 296-155-24510. Body harnesses must be used in personal fall arrest and fall restraint systems.

(5) For nonassembly/disassembly work, the employer must provide and ensure the use of fall protection equipment for employees who are on a walking/working surface with an unprotected side or edge more than six feet above a lower level as follows:

(a) When moving point-to-point:

(i) On nonlattice booms (whether horizontal or not horizontal).

(ii) On lattice booms that are not horizontal.

(iii) On horizontal lattice booms where the fall distance is ten feet or more.

(b) While at a work station on any part of the crane (including the boom, of any type).

Note: If the equipment is running and the employee is at or near the draw-works, precautions should be taken to ensure the fall protection gear will not become entangled.

(6) For assembly/disassembly work, the employer must provide and ensure the use of fall protection equipment for employees who are on a walking/working surface with an unprotected side or edge more than ten feet above a lower level.

Note: If the equipment is running and the employee is at or near the draw-works, precautions should be taken to ensure the fall protection gear will not become entangled.

(7) Anchorage criteria.

(a) Anchorages used for attachment of personal fall arrest equipment must be independent of any anchorage being used to support or suspend platforms and capable of supporting at least five thousand pounds (22.2 kN) per employee attached, or must be designed, installed, and used as follows:

(i) As part of a complete personal fall arrest system which maintains a safety factor of at least two; and

(ii) Under the supervision of a qualified person.

(b) Positioning devices must be secured to an anchorage capable of supporting at least twice the potential impact load of an employee's fall or three thousand pounds (13.3 kN), whichever is greater.

(c) Anchorages for personal fall arrest and positioning device systems.

(i) Personal fall arrest systems must be anchored to any apparently substantial part of the equipment unless a competent person, from a visual inspection, without an engineering analysis, would conclude that the criteria in (a) of this subsection would not be met.

(ii) Positioning device systems must be anchored to any apparently substantial part of the crane unless a competent person, from a visual inspection, without an engineering analysis, would conclude that the criteria in (b) of this subsection would not be met.

(iii) Attachable anchor devices (portable anchor devices that are attached to the crane) must meet the anchorage criteria in (a) of this subsection for personal fall arrest systems and (b) of this subsection for positioning device systems.

(8) Anchorages for fall restraint systems. Fall restraint systems must be anchored to any part of the crane that is capable of withstanding twice the maximum load that an employee may impose on it during reasonably anticipated conditions of use.

(9) Tower cranes.

(a) For work other than erecting, climbing, and dismantling, the employer must provide and ensure the use of fall protection equipment for employees who are on a walking/working surface with an unprotected side or edge more than six feet above a lower level.

Note: If the equipment is running and the employee is at or near the draw-works, precautions should be taken to ensure the fall protection gear will not become entangled.

(b) For erecting, climbing, and dismantling work, the employer must provide and ensure the use of fall protection equipment for employees who are on a walking/working surface with an unprotected side or edge more than ten feet above a lower level.

(10) Anchoring to the load line. A personal fall arrest system is permitted to be anchored to the crane/derrick's hook (or other part of the load line) where all of the following requirements are met:

(a) A qualified person has determined that the set-up and rated capacity of the crane/derrick (including the hook, load line and rigging) meets or exceeds the requirements in subsection (7)(a) of this section.

(b) The crane operator must be at the worksite and informed that the crane is being used for this purpose.

(c) No load is suspended from the load line when the personal fall arrest system is anchored to the crane/derrick's hook (or other part of the load line).

(11) Training. The employer must train each employee who may be exposed to fall hazards while on, or hoisted by, cranes/derricks covered by this section on all of the following:

(a) The requirements in this part that address fall protection.

(b) The applicable requirements in Parts C-1 and K of this chapter.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53404 Wire rope. (1) Selection and installation criteria.

(a) Original crane/derrick wire rope and replacement wire rope must be selected and installed in accordance with the requirements of this section. Selection of replacement wire rope must be in accordance with the recommendations of the wire rope manufacturer, the crane/derrick manufacturer, or a qualified person.

(b) Wire rope design criteria: Wire rope (other than rotation resistant rope) must comply with either Option (1) or Option (2) of this section, as follows:

(i) Option (1). Wire rope must comply with Section 5-1.7.1 of ASME B30.5-2007 except that section's paragraph (c) must not apply.

(ii) Option (2). Wire rope must be designed to have, in relation to the crane's/derrick's rated capacity, a sufficient minimum breaking force and design factor so that compliance with the applicable inspection provisions in this section will be an effective means of preventing sudden rope failure.

(c) Wire rope must be compatible with the safe functioning of the crane/derrick.

(d) Boom hoist reeving.

(i) Fiber core ropes must not be used for boom hoist or luffing attachment reeving, except for derricks.

(ii) Rotation resistant ropes must be used for boom hoist reeving only where the requirements of (e) of this subsection are met.

(e) Rotation resistant ropes.

(i) Definitions.

(A) Type I rotation resistant wire rope (Type I). Type I rotation resistant rope is stranded rope constructed to have little or no tendency to rotate or, if guided, transmits little or no torque. It has at least fifteen outer strands and comprises an assembly of at least three layers of strands laid helically over a center in two operations. The direction of lay of the outer strands is opposite to that of the underlying layer.

(B) Type II rotation resistant wire rope (Type II). Type II rotation resistant rope is stranded rope constructed to have resistance to rotation. It has at least ten outer strands and comprises an assembly of two or more layers of strands laid helically over a center in two or three operations. The direction of lay of the outer strands is opposite to that of the underlying layer.

(C) Type III rotation resistant wire rope (Type III). Type III rotation resistant rope is stranded rope constructed to have limited resistance to rotation. It has no more than nine outer strands, and comprises an assembly of two layers of strands laid helically over a center in two operations. The direction of lay of the outer strands is opposite to that of the underlying layer.

(ii) Requirements.

(A) Types II and III with an operation design factor of less than five must not be used for duty cycle or repetitive lifts.

(B) Rotation resistant ropes (including Types I, II and III) must have an operating design factor of no less than 3.5.

(C) Type I must have an operating design factor of no less than five, except where the wire rope manufacturer and the crane/derrick manufacturer approves the design factor, in writing.

(D) Types II and III must have an operating design factor of no less than five, except where the requirements of (e)(iii) of this subsection are met.

(iii) When Types II and III with an operation design factor of less than five are used (for nonduty cycle, nonrepetitive lifts), the following requirements must be met for each lifting operation:

(A) A qualified person must inspect the rope in accordance with subsection (2)(a) of this section. The rope must be used only if the qualified person determines that there are no deficiencies constituting a hazard. In making this determination, more than one broken wire in any one rope lay must be considered a hazard.

(B) Operations must be conducted in such a manner and at such speeds as to minimize dynamic effects.

(C) Each lift made under these provisions must be recorded in the monthly and annual inspection documents. Such prior uses must be considered by the qualified person in determining whether to use the rope again.

(iv) Additional requirements for rotation resistant ropes for boom hoist reeving.

(A) Rotation resistant ropes must not be used for boom hoist reeving, except where the requirements of (e)(iv)(B) of this subsection are met.

(B) Rotation resistant ropes may be used as boom hoist reeving when load hoists are used as boom hoists for attachments such as luffing attachments or boom and mast attachment systems. Under these conditions, all of the following requirements must be met:

(I) The drum must provide a first layer rope pitch diameter of not less than eighteen times the nominal diameter of the rope used.

(II) The requirements in WAC 296-155-53400(44) (irrespective of the date of manufacture of the crane/derrick), and WAC 296-155-53400(45).

(III) The requirements of ANSI/ASME B30.5-2007, Section 5-1.3.2(a), (a)(2) through (a)(4), (b) and (d), except that the minimum pitch diameter for sheaves used in multiple rope reeving is eighteen times the nominal diameter of the rope used instead of the value of sixteen specified in Section 5-1.3.2(d).

(IV) All sheaves used in the boom hoist reeving system must have a rope pitch diameter of not less than eighteen times the nominal diameter of the rope used.

(V) The operating design factor for the boom hoist reeving system must be not less than five.

(VI) The operating design factor for these ropes must be the total minimum breaking force of all parts of rope in the system divided by the load imposed on the rope system when supporting the static weights of the structure and the load within the crane's/derrick's rated capacity.

(VII) When provided, a power-controlled lowering system must be capable of handling rated capacities and speeds as specified by the manufacturer.

(f) Wire rope clips used in conjunction with wedge sockets must be attached to the unloaded dead end of the rope only, except that the use of devices specifically designed for dead-ending rope in a wedge socket is permitted.

(g) Socketing must be done in the manner specified by the manufacturer of the wire rope or fitting.

(h) Prior to cutting a wire rope, seizings must be placed on each side of the point to be cut. The length and number of seizings must be in accordance with the wire rope manufacturer's instructions.

(2) Inspection of wire ropes.

(a) Shift inspection.

(i) A competent person must begin a visual inspection prior to each shift the crane/derrick is used, which must be completed before or during that shift. The inspection must consist of observation of accessible wire ropes (running and standing) that are likely to be in use during the shift for apparent deficiencies, including those listed in (a)(ii) of this subsection. Untwisting (opening) of wire rope or booming down is not required as part of this inspection.

(A) Category I. Apparent deficiencies in this category include the following:

(I) Distortion of the wire rope structure such as kinking, crushing, unstranding, birdcaging, signs of core failure or steel core protrusion between the outer strands.

(II) Corrosion.

(III) Electric arc damage (from a source other than power lines) or heat damage.

(IV) Improperly applied end connections.

(V) Corroded, cracked, bent, or worn end connections (such as from severe service).

(B) Category II. Apparent deficiencies in this category are:

(I) Visibly broken wires in running wire ropes: Six randomly distributed broken wires in one rope lay or three broken wires in one strand in one rope lay, where a rope lay is the length along the rope in which one strand makes a complete revolution around the rope;

(II) Visibly broken wires in rotation resistant ropes: Two randomly distributed broken wires in six rope diameters or four randomly distributed broken wires in thirty rope diameters;

(III) Visibly broken wires in pendants or standing wire ropes: More than two broken wires in one rope lay located in rope beyond end connections and/or more than one broken wire at an end connection; and

(IV) A diameter reduction of more than five percent from nominal diameter.

(C) Category III. Apparent deficiencies in this category include the following:

(I) In rotation resistant wire rope, core protrusion or other distortion indicating core failure.

(II) Prior electrical contact with a power line.

(III) A broken strand.

(ii) Critical review items. The competent person must give particular attention to all of the following:

(A) Rotation resistant wire rope in use.

(B) Wire rope being used for boom hoists and luffing hoists, particularly at reverse bends.

(C) Wire rope at flange points, crossover points and repetitive pickup points on drums.

(D) Wire rope at or near terminal ends.

(E) Wire rope in contact with saddles, equalizer sheaves or other sheaves where rope travel is limited.

(iii) Removal from service.

(A) If a deficiency in Category I is identified, an immediate determination must be made by the competent person as to whether the deficiency constitutes a safety hazard. If the deficiency is determined to constitute a safety hazard, operations involving use of the wire rope in question must be prohibited until:

(I) The wire rope is replaced; or

(II) If the deficiency is localized, the problem is corrected by removing the damaged section of the wire rope; the undamaged portion may continue to be used. Joining lengths of wire rope by splicing is prohibited. If a rope is shortened under this subsection, the employer must ensure that the drum will still have two wraps of wire when the load and/or boom is in its lowest position.

(B) If a deficiency in Category II is identified, operations involving use of the wire rope in question must be prohibited until:

(I) The employer complies with the wire rope manufacturer's established criterion for removal from service or a different criterion that the wire rope manufacturer has approved in writing for that specific wire rope;

(II) The wire rope is replaced.

(C) If the deficiency is localized, the problem is corrected by severing the wire rope in two; the undamaged portion may continue to be used. Joining lengths of wire rope by splicing is prohibited. If a rope is shortened under this subsection, the employer must ensure that the drum will still have two wraps of wire when the load and/or boom is in its lowest position. If a deficiency in category III is identified, operations involving use of the wire rope in question must be prohibited until:

(I) The wire rope is replaced; or

(II) If the deficiency (other than power line contact) is localized, the problem is corrected by severing the wire rope in two; the undamaged portion may continue to be used. Joining lengths of wire rope by splicing is prohibited. Repair of wire rope that contacted an energized power line is also prohibited. If a rope is shortened under this subsection, the employer must ensure that the drum will still have two wraps of wire when the load and/or boom is in its lowest position.

(D) Where a wire rope is required to be removed from service under this section, either the crane/derrick (as a whole) or the hoist with that wire rope must be tagged-out, in accordance with WAC 296-155-53400(67), until the wire rope is repaired or replaced.

(b) Monthly inspection.

(i) Each month an inspection must be conducted in accordance with (a) of this subsection (shift inspection).

(ii) The inspection must include any deficiencies that the qualified person who conducts the annual inspection determines under (c)(iii) of this subsection must be monitored.

(iii) Wire ropes on a crane/derrick must not be used until an inspection under this subsection demonstrates that no corrective action under (a)(iii) of this subsection is required.

(iv) This inspection must be documented and be kept and made available upon request. Electronic records are acceptable.

(c) Annual/comprehensive, for cranes and derricks not covered by WAC ((~~296-155-529~~)) 296-155-531 through 296-155-53214.

(i) At least every twelve months, wire ropes in use on the crane/derrick must be inspected by a qualified person in accordance with (a) of this subsection (shift inspection).

(ii) In addition, at least every twelve months, the wire ropes in use on the crane/derrick must be inspected by a qualified person, as follows:

(A) The inspection must be for deficiencies of the types listed in (a)(i)(B) of this subsection.

(B) The inspection must be complete and thorough, covering the surface of the entire length of the wire ropes, with particular attention given to all of the following:

(I) Critical review items listed in (a)(ii) of this subsection.

(II) Those sections that are normally hidden during shift and monthly inspections.

(III) Wire rope in contact with saddles, equalizer sheaves or other sheaves where rope travel is limited.

(IV) Wire rope subject to reverse bends.

(V) Wire rope passing over sheaves.

(VI) Wire rope at or near terminal ends.

(C) Exception: In the event an inspection under (c)(ii) of this subsection is not feasible due to existing set-up and configuration of the crane/derrick (such as where an assist crane is needed) or due to site conditions (such as a dense urban set-

ting). The inspection must consist of observation of the working range plus three additional wraps (running and standing) prior to use.

(iii) If a deficiency is identified, an immediate determination must be made by the qualified person as to whether the deficiency constitutes a safety hazard.

(A) If the deficiency is determined to constitute a safety hazard, operations involving the use of the wire rope in question is prohibited until:

(I) The wire rope is replaced; or

(II) If the deficiency is localized, the problem is corrected by severing the wire rope in two; the undamaged portion may continue to be used. Joining lengths of wire rope by splicing is prohibited. If a rope is shortened under this subsection, the employer must ensure that the drum will still have two wraps of wire when the load and/or boom is in its lowest position.

(B) If the qualified person determines that, though not presently a safety hazard, the deficiency needs to be monitored, the employer must ensure that the deficiency is checked in the monthly inspections.

(iv) This inspection must be documented and be kept and made available upon request. Electronic records are acceptable.

(d) Rope lubricants that are of the type that hinder inspection must not be used.

(3) All documents produced under this section must be available, during the applicable document retention period, to all persons who conduct inspections under this section.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53406 Signals. (1) A qualified signal person that meets the requirements in WAC 296-155-53302 must be provided in each of the following situations:

(a) The point of operation, meaning the load travel or the area near or at load placement, is not in full view of the crane/derrick operator.

(b) When the crane is traveling, the view in the direction of travel is obstructed.

(c) Due to site specific safety concerns, either the crane/derrick operator or the person handling the load determines that it is necessary.

(2) Types of signals. Signals to crane/derrick operators must be by hand, voice, audible, or other means at least as effective.

(3) Hand signals.

(a) When using hand signals, the standard method as established in the applicable ASME B30 standards must be used. Where use of the standard method for hand signals is infeasible, or where an operation or use of an attachment is not covered in the standard method, nonstandard hand signals may be used in accordance with (b) of this subsection.

Note: See WAC 296-155-56400 for the hand signal chart.

(b) Nonstandard hand signals. When using nonstandard hand signals, the signal person, operator, and lift director must contact each other prior to the operation and agree on the nonstandard hand signals that will be used.

(4) Signals other than hand, voice or audible signals may be used where the employer demonstrates that the signals provided are at least equally effective communications as voice, audible, or standard method hand signals.

(5) Use and suitability.

(a) Prior to beginning operations, the operator, signal person, and lift director, must contact each other and agree on the voice signals that will be used. Once the voice signals are agreed upon, these employees need not meet again to discuss voice signals unless another employee is added or substituted, there is confusion about the voice signals, or a voice signal is to be changed.

(b) Each voice signal must contain the following three elements, given in the following order: Function (such as hoist, boom, etc.) and direction; distance and/or speed; function stop.

(c) The operator, signal person and lift director, must be able to effectively communicate in the language used.

(d) The signals used (hand, voice, audible, or other effective means), and means of transmitting the signals to the operator (such as direct line of sight, video, radio, etc.) must be appropriate for the site conditions.

(e) Signals must be discernible or audible at all times. The crane operator must not respond unless signals are clearly understood.

(6) During operations requiring signals, the ability to transmit signals between the operator and signal person must be maintained. If that ability is interrupted at any time, the operator must safely stop operations requiring signals until it is reestablished and a proper signal is given and understood.

(7) If the operator becomes aware of a safety problem and needs to communicate with the signal person, the operator must safely stop operations. Operations must not resume until the operator and signal person agree that the problem has been resolved.

(8) Only one person gives signals to a crane/derrick at a time, except in circumstances covered by subsection (9) of this section.

(9) Anyone who becomes aware of a safety problem must alert the operator or signal person by giving the stop or emergency stop signal. The operator must obey a stop (or emergency stop) signal, irrespective of who gives it.

(10) All directions given to the operator by the signal person must be given from the operator's direction perspective.

(11) Communication with multiple cranes/derricks. Where a signal person(s) is in communication with more than one crane/derrick, a system for identifying the crane/derrick for which each signal is intended must be used, as follows:

(a) For each signal, prior to giving the function/direction, the signal person must identify the crane/derrick for which the signal is intended; or

(b) An equally effective method of identifying which crane/derrick the signal is intended for must be used.

(12) Hand signal chart. Hand signal charts must be either posted on the crane/derrick or conspicuously posted in the vicinity of the hoisting operations.

(13) Radio, telephone or other electronic transmission of signals.

(a) The device(s) used to transmit signals must be tested on site before beginning operations to ensure that the signal transmission is effective, clear, and reliable.

(b) Signal transmission must be through a dedicated channel except:

(i) Multiple cranes/derricks and one or more signal persons may share a dedicated channel for the purpose of coordinating operations.

(ii) Where a crane is being operated on or adjacent to railroad tracks, and the actions of the crane operator need to be coordinated with the movement of other equipment or trains on the same or adjacent tracks.

(c) The operator's reception of signals must be made by a hands-free system.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53408 Power line safety. (1) Assembly and disassembly of crane/derrick.

(a) Before assembling or disassembling crane/derrick, the employer must determine if any part of the crane/derrick, load line or load (including rigging and lifting accessories) could get, in the direction or area of assembly, closer than twenty feet of a power line that is up to 350 kV or closer than fifty feet of a power line that exceeds 350 kV during the assembly/disassembly process. If so, the employer must meet the requirements in Option (1), Option (2), or Option (3), as follows:

(i) Option (1) - Deenergize and ground. Confirm from the utility owner/operator that the power line has been deenergized and visibly grounded at the worksite.

(ii) Option (2) - Clearance. Ensure that no part of the crane/derrick, load line or load (including rigging and lifting accessories), gets closer than twenty feet of a power line that is up to 350 kV or closer than fifty feet of a power line that exceeds 350 kV by implementing the measures specified in (b) of this subsection.

(iii) Option (3) - Table 4 clearance.

(A) Determine the line's voltage and the minimum approach distance permitted under Table 4 of this section.

(B) Determine if any part of the crane/derrick, load line or load (including rigging and lifting accessories), could get closer than the minimum approach distance of the power line permitted under Table 4 of this section. If so, then the employer must follow the requirements in (b) of this subsection to ensure that no part of the crane/derrick, load line, or load (including rigging and lifting accessories), gets closer to the line than the minimum approach distance.

(b) Preventing encroachment/electrocution. Where encroachment precautions are required under Option (2), or Option (3), all of the following requirements must be met:

(i) Conduct a planning meeting with the assembly/disassembly director, operator, assembly/disassembly crew and the other workers who will be in the assembly/disassembly area to review the location of the power line(s) and the steps that will be implemented to prevent encroachment/electrocution.

(ii) If tag lines are used, they must be nonconductive.

(iii) At least one of the following additional measures must be in place. The measure selected from this list must be effective in preventing encroachment. The additional measures are:

(A) Use a dedicated spotter who is in continuous contact with the crane/derrick operator, plus an elevated warning line, barricade, or line of signs, in view of the spotter, equipped with flags or similar high-visibility markings. The dedicated spotter must:

(I) Be equipped with a visual aid to assist in identifying the minimum clearance distance. Examples of a visual aid include: A clearly visible line painted on the ground; a clearly visible line on stanchions; a set of clearly visible line-of-sight landmarks (such as a fence post behind the dedicated spotter and a building corner ahead of the dedicated spotter).

(II) Be positioned to effectively gauge the clearance distance.

(III) Where necessary, use equipment that enables the dedicated spotter to communicate directly with the operator, in accordance with WAC 296-155-53406(13) (radio, telephone, or other electronic transmission of signals).

(IV) Give timely information to the operator so that the required clearance distance can be maintained.

Note: To be considered a dedicated spotter, the requirements of WAC 296-155-53302 (Signal person qualifications) must be met and his/her sole responsibility is to watch the separation between the power line and the equipment, the load line and load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached.

(B) A proximity alarm set to give the operator sufficient warning to prevent encroachment.

(C) A device that automatically warns the operator when to stop movement, such as a range control warning device. Such a device must be set to give the operator sufficient warning to prevent encroachment.

(D) A device that automatically limits range of movement, set to prevent encroachment.

(c) Assembly/disassembly below power lines is prohibited. No part of a crane/derrick, load line or load (including rigging and lifting accessories), whether partially or fully assembled, is allowed below a power line unless the employer has confirmed that the utility owner/operator has deenergized and (at the worksite) visibly grounded the power line.

(d) Assembly/disassembly inside Table 4 clearance is prohibited. No part of a crane/derrick, load line or load (including rigging and lifting accessories), whether partially or fully assembled, is allowed closer than the minimum approach distance under Table 4 of a power line unless the employer has confirmed that the utility owner/operator has deenergized and (at the worksite) visibly grounded the power line.

(e) Voltage information. Where Option (3) is used, the utility owner/operator of power lines must provide the requested voltage information prior to commencement of work or within two working days of the employer's request.

(f) Power lines presumed energized. The employer must assume that all power lines are energized unless the utility owner/operator confirms that the power line has been and

continues to be deenergized and visibly grounded at the worksite.

(g) Posting of electrocution warnings. There must be at least one electrocution hazard warning conspicuously posted in the cab so that it is in view of the operator and (except for overhead gantry and tower cranes) at least two on the outside of the crane/derrick.

(2) Operation of crane/derrick.

(a) Hazard assessments and precautions inside the work zone. Before beginning crane/derrick operations, the employer must:

(i) Identify the work zone.

(A) Define a work zone by demarcating boundaries (such as with flags, or a device such as a range limit device or range control warning device) and prohibiting the operator from operating the crane/derrick past those boundaries; or

(B) Define the work zone as the area three hundred sixty degrees around the crane/derrick, up to its maximum working radius.

(ii) Determine if any part of the crane/derrick, load line or load (including rigging and lifting accessories), if operated up to its maximum working radius in the work zone, could get closer than twenty feet of a power line that is up to 350 kV or closer than fifty feet of a power line that exceeds 350 kV. If so, the employer must meet the requirements in Option (1), Option (2), or Option (3) as follows:

(A) Option (1) - Deenergize and ground. Confirm from the utility owner/operator that the power line has been deenergized and visibly grounded at the worksite.

(B) Option (2) - Twenty-foot clearance. Ensure that no part of the crane/derrick, load line, or load (including rigging and lifting accessories), gets closer than twenty feet to the power line by implementing the measures specified in (b) of this subsection.

(C) Option (3) - Table 4 clearance.

(I) Determine the line's voltage and the minimum approach distance permitted under Table 4 of this section.

(II) Determine if any part of the crane/derrick, load line or load (including rigging and lifting accessories), while operating up to its maximum working radius in the work zone, could get closer than the minimum approach distance of the power line permitted under Table 4 of this section. If so, then the employer must follow the requirements in (b) of this subsection to ensure that no part of the crane/derrick, load line, or load (including rigging and lifting accessories), gets closer to the line than the minimum approach distance.

(b) Preventing encroachment/electrocution. Where encroachment precautions are required under Option (2) or Option (3), all of the following requirements must be met:

(i) Conduct a planning meeting with the operator and the other workers who will be in the area of the crane/derrick or load to review the location of the power line(s), and the steps that will be implemented to prevent encroachment/electrocution.

(ii) If tag lines are used, they must be nonconductive.

(iii) Erect and maintain an elevated warning line, barricade, or line of signs, in view of the operator, equipped with flags or similar high-visibility markings, at twenty feet from a power line that is up to 350 kV or fifty feet from a power line that exceeds 350 kV (if using Option (2)) or at the minimum approach distance under Table 4 of this section (if using Option (3)). If the operator is unable to see the elevated warning line, a dedicated spotter must be used as described in (iv)(B) of this subsection in addition to implementing one of the measures described in (b)(i), (iii) through (v) of this subsection.

(iv) Implement at least one of the following measures:

(A) A proximity alarm set to give the operator sufficient warning to prevent encroachment.

(B) Use a dedicated spotter who is in continuous contact with the crane/derrick operator, plus an elevated warning line, barricade, or line of signs, in view of the spotter, equipped with flags or similar high-visibility markings. The dedicated spotter must:

(I) Be equipped with a visual aid to assist in identifying the minimum clearance distance. Examples of a visual aid include: A clearly visible line painted on the ground; a clearly visible line on stanchions; a set of clearly visible line-of-sight landmarks (such as a fence post behind the dedicated spotter and a building corner ahead of the dedicated spotter).

(II) Be positioned to effectively gauge the clearance distance.

(III) Where necessary, use equipment that enables the dedicated spotter to communicate directly with the operator.

(IV) Give timely information to the operator so that the required clearance distance can be maintained.

Note: To be considered a dedicated spotter, the requirements of WAC 296-155-53302 (Signal person qualifications) must be met and his/her sole responsibility is to watch the separation between the power line and the equipment, the load line and load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached.

(C) A device that automatically warns the operator when to stop movement, such as a range control warning device. Such a device must be set to give the operator sufficient warning to prevent encroachment.

(D) A device that automatically limits range of movement, set to prevent encroachment.

(E) An insulating link/device, as defined in WAC 296-155-52902, installed at a point between the end of the load line (or below) and the load.

(v) The requirements of (b)(iv) of this subsection do not apply to work covered by chapter 296-45 WAC.

(c) Voltage information. Where Option (3) is used, the utility owner/operator of power lines must provide the requested voltage information prior to commencement of work or within two working days of the employer's request.

(d) Operations below power lines.

(i) No part of the crane/derrick, load line or load (including rigging and lifting accessories) is allowed below a power line unless the employer has confirmed that the utility owner/operator has deenergized and (at the worksite) visibly grounded the power line, except where one of the exceptions in (d)(ii) of this subsection apply.

(ii) Exceptions. (d)(i) of this subsection is inapplicable where the employer demonstrates that one of the following applies:

(A) The work is covered by chapter 296-45 WAC.

(B) For cranes/derricks with nonextensible booms: The uppermost part of the crane/derrick, with the boom at true

vertical, would be more than twenty feet below the plane of a power line that is up to 350 kV, fifty feet below the plane of a power line that exceeds 350 kV or more than the Table 4 minimum clearance distance below the plane of the power line.

(C) For cranes with articulating or extensible booms: The uppermost part of the crane, with the boom in the fully extended position, at true vertical, would be more than twenty feet below the plane of a power line that is up to 350 kV, fifty feet below the plane of a power line that exceeds 350 kV or more than the Table 4 minimum clearance distance below the plane of the power line.

(D) The employer demonstrates that compliance with (d)(i) of this subsection is infeasible and meets the requirements of subsection ((~~(3)~~)) (4) of this section.

(e) Power lines presumed energized. The employer must assume that all power lines are energized unless the utility owner/operator confirms that the power line has been and continues to be deenergized and visibly grounded at the worksite.

(f) Training.

(i) The employer must train each operator and crew member assigned to work with the crane/derrick on all the following:

(A) The procedures to be followed in the event of electrical contact with a power line. Such training must include:

(I) Information regarding the danger of electrocution from the operator simultaneously touching the crane/derrick and the ground.

(II) The importance to the operator's safety of remaining inside the cab except where there is an imminent danger of fire, explosion, or other emergency that necessitates leaving the cab.

(III) The safest means of evacuating from the crane/derrick that may be energized.

(IV) The danger of the potentially energized zone around the crane/derrick (step potential).

(V) The need for crew in the area to avoid approaching or touching the crane/derrick and the load.

(VI) Safe clearance distance from power lines.

(B) Power lines are presumed to be energized unless the utility owner/operator confirms that the power line has been and continues to be deenergized, and visibly grounded at the worksite.

(C) Power lines are presumed to be uninsulated unless the utility owner/operator or a registered engineer who is a qualified person with respect to electrical power transmission and distribution confirms that a power line is insulated.

(D) The limitations of an insulating link/device, proximity alarm, and range control (and similar) device, if used.

(E) The procedures to be followed to properly ground equipment and the limitations of grounding.

(ii) Employees working as dedicated spotters must be trained to enable them to effectively perform their task, including training on the applicable requirements of this section.

(iii) Training under this section must be administered in accordance with WAC 296-155-53409(2).

(g) Devices originally designed by the manufacturer for use as: A safety device (see WAC 296-155-53410), operational aid (see WAC 296-155-53412), or a means to prevent power line contact or electrocution, when used to comply with this section, must meet the manufacturer's procedures for use and conditions of use.

(3) Prior to working near a transmitter/communication tower where an electrical charge can be induced in the crane/derrick or materials being handled, the transmitter must be deenergized or the following precautions must be taken:

(a) The crane/derrick must be provided with an electrical ground directly to the crane/derrick frame;

(b) Ground jumper cables must be attached to materials being handled by boom equipment when electrical charge is induced while working near energized transmitters. Crews must be provided with nonconductive poles having large alligator clips or other similar protection to attach the ground cable to the load;

(c) Combustible and flammable materials must be removed from the immediate area prior to operations; and

(d) If tag lines are used, they must be nonconductive.

(4) Operation of the crane/derrick inside the Table 4 zone. Operations in which any part of the crane/derrick, load line or load (including rigging and lifting accessories) is either closer than the minimum approach distance under Table 4 of an energized power line or the power line voltage is undetermined and the crane/derrick load line or load is within twenty feet from the power line is prohibited, except where the employer demonstrates that all of the following requirements are met:

(a) Notify the crane safety program within the department of labor and industries.

(b) The employer determines that it is infeasible to do the work without breaching the minimum approach distance under Table 4 of this section.

(c) The employer determines that, after consultation with the utility owner/operator, it is infeasible to deenergize and ground the power line or relocate the power line.

(d) Minimum clearance distance.

(i) The power line owner/operator or registered professional engineer who is a qualified person with respect to electrical power transmission and distribution determines the minimum clearance distance that must be maintained to prevent electrical contact in light of the on-site conditions. The factors that must be considered in making this determination include, but are not limited to: Conditions affecting atmospheric conductivity; time necessary to bring the crane/derrick, load line and load (including rigging and lifting accessories) to a complete stop; wind conditions; degree of sway in the power line; lighting conditions, and other conditions affecting the ability to prevent electrical contact.

(ii) Subsection (4)(d)(i) of this section does not apply to work covered by chapter 296-45 WAC; instead, for such work, the minimum clearance distances specified in chapter 296-45 WAC, Table 1 apply. Employers covered by chapter 296-45 WAC are permitted to work closer than the distances in chapter 296-45 WAC, Table 1, where both the requirements of this rule and WAC 296-45-375(10) are met.

(e) A planning meeting with the employer and utility owner/operator (or registered professional engineer who is a qualified person with respect to electrical power transmission and distribution) is held to determine the procedures that will

be followed to prevent electrical contact and electrocution. At a minimum these procedures must include:

(i) If the power line is equipped with a device that automatically reenergizes the circuit in the event of a power line contact, before the work begins, the automatic reclosing feature of the circuit interrupting device must be made inoperative if the design of the device permits.

(ii) A dedicated spotter who is in continuous contact with the operator. The dedicated spotter must:

(A) Be equipped with a visual aid to assist in identifying the minimum clearance distance. Examples of a visual aid include, but are not limited to: A clearly visible line painted on the ground; a clearly visible line on stanchions; a set of clearly visible line-of-sight landmarks (such as a fence post behind the dedicated spotter and a building corner ahead of the dedicated spotter).

(B) Be positioned to effectively gauge the clearance distance.

(C) Where necessary, use equipment that enables the dedicated spotter to communicate directly with the operator.

(D) Give timely information to the operator so that the required clearance distance can be maintained.

Note: To be considered a dedicated spotter, the requirements of WAC 296-155-53302 (Signal person qualifications) must be met and his/her sole responsibility is to watch the separation between the power line and the equipment, the load line and load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached.

(iii) An elevated warning line, or barricade (not attached to the crane), in view of the operator (either directly or through video equipment), equipped with flags or similar high-visibility markings, to prevent electrical contact. However, this provision does not apply to work covered by chapter 296-45 WAC.

(iv) Insulating link/device.

(A) An insulating link/device installed at a point between the end of the load line (or below) and the load.

(B) For work covered by chapter 296-45 WAC, the requirement in (e)(iv)(A) of this subsection applies only when working inside the clearance distances of Table 1 in chapter 296-45 WAC.

(C) For work covered by chapter 296-45 WAC, electrical workers, involving operations where use of an insulating link/device is infeasible, the requirements of WAC 296-45-375 (10)(c)(ii) or (iii) may be substituted for the requirement in (e)(iv)(A) of this subsection.

(v) Until one year after the effective date of this part, the following procedure may be substituted for the requirement in (e)(iv)(A) of this subsection: All employees, excluding equipment operators located on the equipment, who may come in contact with the equipment, the load line, or the load must be insulated or guarded from the equipment, the load line, and the load. Insulating gloves rated for the voltage involved are adequate insulation for the purposes of this section.

(vi) Until three years after the effective date of this part the following procedure may be substituted for the requirement in (e)(iv)(A) of this subsection:

(A) The employer must use a link/device manufactured on or before one year after the effective date of this part that meets the definition of an insulating link/device, except that it has not been approved by a nationally recognized testing laboratory, and that is maintained and used in accordance with manufacturer requirements and recommendations, and is installed at a point between the end of the load line (or below) and the load; and

(B) All employees, excluding equipment operators located on the equipment, who may come in contact with the equipment, the load line, or the load must be insulated or guarded from the equipment, the load line, and the load through an additional means other than the device described in (e)(vi)(A) of this subsection. Insulating gloves rated for the voltage involved are adequate additional means of protection for the purposes of this section.

(vii) Use nonconductive rigging if the rigging may be within the Table 4 distance during the operation.

(viii) If the crane/derrick is equipped with a device that automatically limits range of movement, it must be used and set to prevent any part of the crane/derrick, load line or load (including rigging and lifting accessories) from breaching the minimum approach distance established under (d) of this subsection.

(ix) If a tag line is used, it must be of the nonconductive type.

(x) Barricades forming a perimeter at least ten feet away from the crane/derrick to prevent unauthorized personnel from entering the work area. In areas where obstacles prevent the barricade from being at least ten feet away, the barricade must be as far from the crane/derrick as feasible.

(xi) Workers other than the operator must be prohibited from touching the load line above the insulating link/device and crane. Operators remotely operating the equipment from the ground must use either wireless controls that isolate the operator from the equipment or insulating mats that insulate the operator from the ground.

(xii) Only personnel essential to the operation are permitted to be in the area of the crane and load.

(xiii) The crane/derrick must be properly grounded.

(xiv) Insulating line hose or cover-up must be installed by the utility owner/operator except where such devices are unavailable for the line voltages involved.

(f) The procedures developed to comply with (e) of this subsection are documented and immediately available onsite.

(g) The crane/derrick user and utility owner/operator (or registered professional engineer) meet with the operator and the other workers who will be in the area of the crane/derrick or load to review the procedures that will be implemented to prevent breaching the minimum approach distance established in (d) of this subsection and prevent electrocution.

(h) The procedures developed to comply with (e) of this subsection are implemented.

(i) The utility owner/operator (or registered professional engineer) and all employers of employees involved in the work must identify one person who will direct the implementation of the procedures. The person identified in accordance with this section must direct the implementation of the procedures and must have the authority to stop work at any time to ensure safety.

(j) If a problem occurs implementing the procedures being used to comply with (e) of this subsection, or indicating that those procedures are inadequate to prevent electrocution, the employer must safely stop operations and either develop new procedures to comply with (e) of this subsection or have the utility owner/operator deenergize and visibly ground or relocate the power line before resuming work.

(k) Devices originally designed by the manufacturer for use as: Safety devices (see WAC 296-155-53410), operational aids (see WAC 296-155-53412), or a means to prevent power line contact or electrocution, when used to comply with this section, must meet the manufacturer's procedures for use and conditions of use.

(l) The employer must train each operator and crew member assigned to work with the equipment in accordance with subsection (2)(f) of this section.

(5) Cranes while traveling.

(a) This section establishes procedures and criteria that must be met for cranes traveling under a power line on the construction site with no load. Equipment traveling on a construction site with a load is governed by subsections (2), (4), (6), and (7) of this section, whichever is appropriate, and WAC 296-155-53400(35).

(b) The employer must ensure that:

(i) The boom/mast and boom/mast support system are lowered sufficiently to meet the requirements of this section.

(ii) The clearances specified in Table 5 of this section are maintained.

(iii) The effects of speed and terrain on crane movement (including movement of the boom/mast) are considered so that those effects do not cause the minimum clearance distances specified in Table 5 of this section to be breached.

(iv) Dedicated spotter. If any part of the crane while traveling will get closer than twenty feet of the power line, the employer must ensure that a dedicated spotter who is in continuous contact with the driver/operator is used. The dedicated spotter must:

(A) Be positioned to effectively gauge the clearance distance.

(B) Where necessary, use equipment that enables the dedicated spotter to communicate directly with the operator.

(C) Give timely information to the operator so that the required clearance distance can be maintained.

Note: To be considered a dedicated spotter, the requirements of WAC 296-155-53302 (Signal person qualifications) must be met and his/her sole responsibility is to watch the separation between the power line and the equipment, the load line and load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached.

(v) Additional precautions for traveling in poor visibility. When traveling at night, or in conditions of poor visibility, in addition to the measures specified in (b)(i) through (iv) of this subsection, the employer must ensure that:

(A) The power lines are illuminated or another means of identifying the location of the lines must be used.

(B) A safe path of travel is identified and used.

(6) The requirements of subsections (1) and (2) of this section apply to power lines over 350 kV, and below 1000 kV except that wherever the distance "twenty feet" is specified, the distance "fifty feet" must be substituted.

(7) For power lines over 1000 kV, the minimum clearance distance must be established by the utility owner/operator or a registered professional engineer who is a qualified person with respect to power transmission and distribution.

Table 4—Minimum Clearance Distances

Voltage (nominal, kV)	Minimum clearance distance (feet)
up to 50	10
over 50 to 200	15
over 200 to 345	20
over 345 to 500	25
over 500 to 750	35
over 750 to 1,000	45
over 1,000	(as established by the utility owner/operator or registered professional engineer who is a qualified person with respect to electrical power transmission and distribution).

Note: The value that follows "to" is up to and includes that value.

Table 5—Minimum Clearance Distances While Traveling With No Load and Boom/Mast Lowered

Voltage (nominal, kV)	While traveling—Minimum clearance distance (feet)
up to 0.75	4 (while traveling/boom lowered)
over 0.75 to 50	6 (while traveling/boom lowered)
over 50 to 345	10 (while traveling/boom lowered)
over 345 to 750	16 (while traveling/boom lowered)
over 750 to 1,000	20 (while traveling/boom lowered)
over 1,000	(as established by the utility owner/operator or registered professional engineer who is a qualified person with respect to electrical power transmission and distribution).

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-53409 Training. (1) The employer must provide training as follows:

(a) Overhead power lines. The employer must ensure that each employee is trained in accordance with WAC 296-155-53408 (2)(g) and 296-155-53408 (4)(k) in the topics listed in WAC 296-155-53408 (2)(f).

(b) Qualified signal persons. The employer must ensure that each employee is trained who will be assigned to work as a signal person in accordance with the requirements of WAC 296-155-53302(3).

(c) Qualified rigger. The employer must ensure that each employee is trained who will be assigned to work as a rigger in accordance with the requirements of WAC 296-155-53306 (3).

(d) Operators.

(i) Trainee/apprentice operator. The employer must ensure that each trainee/apprentice operator is trained in the areas addressed in WAC 296-155-53300 and 296-155-56420.

(ii) Operator. Operators who have met the requirements in WAC 296-155-53300 and 296-155-56420 will be considered trained.

(iii) For operators using equipment covered under this part that are exempt in WAC 296-155-52900 (3)(b), the employer must ensure that each operator is trained on the safe operation of the equipment the operator will be using.

(e) The employer must train each operator of the equipment covered by this part in the following practices:

(i) On friction equipment, whenever moving a boom off a support, first raise the boom a short distance (sufficient to take the load of the boom) to determine if the boom hoist brake needs to be adjusted. On other types of equipment with a boom, the same practice is applicable, except that typically there is no means of adjusting the brake; if the brake does not hold, a repair is necessary. See WAC 296-155-53400 (68) and (69).

(ii) Where available, the manufacturer's emergency procedures for halting unintended equipment movement.

(f) Competent persons and qualified persons. The employer must ensure that each competent person and each qualified person is trained regarding the requirements of this part applicable to their respective roles.

((~~(f)~~)) (g) Crush/pinch points. The employer must ensure that each employee is trained who works with the equipment to keep clear of holes, and crush/pinch points and the hazards addressed in WAC 296-155-53400(42) (work area control).

((~~(g)~~)) (h) Tag-out. The employer must ensure that each operator and each additional employee authorized to start/energize equipment or operate equipment controls (such as maintenance and repair employees) is trained, in the tag-out and start-up procedures in WAC 296-155-53400 (16) and (67).

(2) Training administration.

(a) The employer must evaluate each employee required to be trained under this part to confirm that the employee understands the information provided in the training.

(b) The employer must ensure that refresher training is provided in relevant topics for each employee when, based on the conduct of the employee or an evaluation of the employee's knowledge, there is an indication that retraining is necessary.

(c) Whenever the employer is required to provide training under this part, the employer must provide the training at no cost to the employee.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-54200 Overhead/bridge and gantry cranes—General. (1) Permanently installed overhead/bridge and gantry cranes which are located in a manufacturing facility or powerhouse must follow the requirements of WAC 296-24-235 (General safety and health standards), even when a construction activity is being performed. This requirement applies to overhead, bridge, gantry cranes, including semigantry, cantilever gantry, wall cranes, storage bridge cranes, and others having the same fundamental characteristics.

(2) Overhead and gantry cranes that are not permanently installed ((~~in a manufacturing facility or a powerhouse~~)) must follow the applicable requirements in chapter 296-155 WAC Part L.

(3) Cranes included in this section must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in:

(a) ASME B30.2-2005, Safety Standard for Overhead and Gantry Cranes (Top Running Bridge, Single or Multiple Girder, Top Running Trolley Hoist).

(b) ASME B30.11-2010, Safety Standards for Monorails and Underhung Cranes.

(c) ASME B30.17-2006, Safety Standards for Overhead and Gantry Cranes (Top Running Bridge, Single Girder, Underhung Hoist).

(d) It is not the intent of this rule to require retrofitting of existing cranes. However, when an item is being modified, its performance needs to be reviewed by a qualified person and compared to the applicable sections of this rule. For modification requirements see WAC 296-155-53400 (58) and (59). For cranes manufactured prior to the effective date of this rule the design and construction criteria must meet at a minimum, ASME B30.2.0-1990.

(4) The rated load of the crane must be plainly marked on each side of the crane, and if the crane has more than one hoisting unit, each hoist must have its rated load marked on it or its load block, and this marking must be clearly legible from the ground or floor.

(5) The crane or surrounding structure must be marked to provide operating directions that match and are visible from the crane's operating controls, i.e., north/south, east/west or forward/back, left/right.

(6) Overhead and gantry cranes with bridge trucks must be equipped with sweeps which extend below the top of the rail and project in front of the truck wheels.

(7) Except for floor-operated cranes, an effective warning device must be provided for each crane equipped with a power traveling mechanism.

(8) A wind-indicating device must be provided for all outdoor overhead and gantry cranes. The device must be mounted on the crane runway structure and must give a visible and audible alarm to the crane operator at a predetermined wind velocity. A single wind-indicating device may serve as an alarm for more than one crane.

(9) Electrical.

(a) Wiring and equipment must comply with Article 610 of ANSI/NFPA No. 70, National Electrical Code and chapter 296-155 WAC Part I.

(b) The control circuit voltage must not exceed 600 volts for AC or DC.

(c) The voltage at pendant pushbuttons must not exceed 150 volts for AC and 300 volts for DC.

(d) Where multiple conductor cable is used with a suspended pushbutton station, the station must be supported in a manner that will protect the electrical conductors against strain.

(e) Pendant control stations must be constructed to prevent electrical shock. The pushbutton enclosure must be at ground potential and marked for identification of functions.

(10) All welding procedures and welding operator qualifications to be used on load sustaining members must be in accordance with ANSI/AWS D1.1, except as modified by ANSI/AWS D14.1.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-54410 Sideboom cranes. (1) The provisions of this standard apply, except WAC 296-155-53400 (34) (Ground conditions), WAC 296-155-53410 (Safety devices), WAC 296-155-53412 (Operational aids), WAC ((~~296-155-52900~~)) 296-155-531 through 296-155-53214 (crane certifier accreditation and crane certification) and WAC 296-155-53300 (Operator qualifications and certification).

(2) Sideboom cranes manufactured prior to the effective date of this section must meet the requirements of SAE J743a-1964. Sideboom cranes mounted on wheel or crawler tractors manufactured after the effective date of this section must meet the requirements of ASME B30.14-2010.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-55110 Proof load test platforms and rigging. (1) The platform and rigging must be proof load tested at each new location before lifting personnel. This may be done at the same time as the trial lift.

(a) Test as follows:

(i) Test to one hundred twenty-five percent of the platform's rated capacity.

(ii) The platform must be ((~~hoisted, then~~)) lowered by controlled load lowering, braked, and held in a suspended position for a minimum of five minutes with the test load evenly distributed on the platform.

(b) Do the following after proof load testing:

(i) A qualified person must inspect the platform and rigging to determine if the test has passed.

(ii) Any deficiencies that pose a safety hazard must be corrected prior to lifting personnel.

(iii) Another test must be performed after any deficiencies are corrected.

(c) Keep the most recent proof load testing records available at the job site.

(d) Personnel hoisting must not be conducted until a qualified person determines that the platform and rigging has successfully passed the proof load test.

(2) The platform and rigging must be proof load tested after any structural repair or modification, before lifting personnel.

(a) Test suspended platforms in the following order:

(i) Test to one hundred fifty percent of the platform's rated capacity;

(ii) The loaded platform must be raised, then lower it at a speed of at least one hundred ft/min;

(iii) Bring the platform to a stop by using the crane/derrick brakes;

(iv) The platform must hang for at least five minutes;

(v) A qualified person must inspect the platform and rigging;

(vi) Any deficiencies must be corrected;

(vii) Another test must be performed after any deficiencies are corrected.

(b) Test attached platforms in the following order:

(i) Test to one hundred twenty-five percent of the platform's rated capacity;

(ii) Hold the platform suspended for five minutes with the test load evenly distributed on the platform;

(iii) A qualified person must inspect the platform and rigging;

(iv) Any deficiencies must be corrected;

(v) Another test must be performed after any deficiencies are corrected.

(c) The most recent proof load testing records must be kept and available at the job site.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-55115 Trial lift. (1) A trial lift must be performed with the personnel platform, on each shift before lifting personnel, to check the following:

(a) Crane/derrick setup and configuration is correct;

(b) Load capacities are adequate;

(c) No hazardous interferences exist;

(d) The operator's operational competence.

(2) A trial lift with the unoccupied personnel platform loaded at least to the anticipated lift-weight must be made from ground level, or any other location where employees will enter the platform, to each location at which the platform is to be hoisted and positioned. Where there is more than one location to be reached from a single set-up position, either individual trial lifts for each location, or a single trial lift, in which the platform is moved sequentially to each location, must be performed; the method selected must be the same as the method that will be used to hoist the personnel.

(3) The trial lift must be repeated before lifting personnel whenever:

(a) The crane or derrick is moved and set up in a different location or returned to a previously used location;

(b) The crane or derrick is reconfigured;

(c) The operator is changed;

(d) The lift route has changed, unless the competent person determines that the new route presents no new factors affecting safety.

(4) A competent person must determine that:

(a) Safety devices and operational aids required by this section are activated and functioning properly. Other safety devices and operational aids must meet the requirements of WAC 296-155-53410 and 296-155-53412.

(b) Nothing interferes with the crane/derrick or the personnel platform in the course of the trial lift.

(c) The lift will not exceed fifty percent of the crane/derrick's rated capacity at any time during the lift.

(d) The load radius to be used during the lift has been accurately determined.

(5) Immediately after the trial lift, a competent person must:

(a) Conduct a visual inspection of the crane/derrick, base support or ground, and personnel platform, to determine whether the trial lift has exposed any defect or problem or produced any adverse effect.

(b) Confirm that, upon the completion of the trial lift process, the test weight has been removed.

(6) Immediately prior to each lift:

(a) The platform must be hoisted a few inches with the personnel and materials/tools on board and inspected by a competent person to ensure that it is secure and properly balanced.

(b) The following conditions must be determined by a competent person to exist before the lift of personnel proceeds:

(i) Hoist ropes must be free of deficiencies in accordance with WAC 296-155-53404.

(ii) Multiple part lines must not be twisted around each other.

(iii) The primary attachment must be centered over the platform.

(iv) If the load rope is slack, the hoisting system must be inspected to ensure that all ropes are properly seated on drums and in sheaves.

(7) Any condition found during the trial lift and subsequent inspection(s) that fails to meet a requirement of this standard or otherwise creates a safety hazard must be corrected before hoisting personnel.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-55210 Crane or derrick operation requirements for personnel lifting. (1) Before lifting personnel the following must be met:

(a) Operate crane/derrick with outriggers or stabilizers extended, blocked, and locked in accordance with the manufacturers' specifications;

(b) For crane/derrick that uses wire rope to hoist a personnel platform, verify that the crane/derrick has an anti two-block device or upper travel limit switch, installed and operational;

(c) Position the personnel platform so that it may be tied off to the structure to which the occupants are entering or leaving, if the platform cannot be landed during the entrance or exit of the occupants. If the platform has been tied off, the operator must not move the platform until it is verified that it is freely suspended;

(d) Not knowingly allow the platform load to exceed the platform rating, except during proof testing;

(e) Not travel the crane/derrick with personnel in the personnel platform except when they run on fixed rails or runways;

(f) Perform all movements of the platform or crane/derrick in a slow, controlled, cautious manner to minimize sudden movement of the platform;

(g) Engage the power-controlled lowering mechanism at all times the platform is occupied (no freefall);

(h) In the case of suspended or boom-mounted platforms, without controls, the operator must remain at the crane/derrick controls at all times when the platform is occupied;

(i) Reserved;

(j) Platforms with controls. Where the platform is equipped with controls, all of the following must be met at all times while the platform is occupied:

(i) The occupant using the controls in the platform must be a qualified person with respect to their use, including the safe limitations of the crane/derrick and hazards associated with its operation. See WAC 296-155-53300, Operator qualifications and certification.

(ii) The crane/derrick operator must be at a set of crane controls that include boom and swing functions of the crane, ((~~or~~)) and must be on-site and in view of the crane/derrick and platform.

(iii) The platform operating manual must be in the platform or on the crane/derrick.

Note: If lowering, retracting, and rotating primary power source becomes inoperative, the crane/derrick operator is allowed to leave the controls.

(k) Set all brakes and locks on the crane/derrick after positioning of the personnel platform and before personnel perform any work;

(l) Move the platform under controlled conditions and under the direction of a qualified signal person or platform occupant(s);

(m) Not move platforms over, under, or in the vicinity of power lines unless the requirements of WAC 296-155-55305 are met;

(n) Not lift any other loads, on any other load lines, while conducting a personnel lift. When the crane/derrick has a boom-attached platform without controls, it must not be used for other lifting service;

(o) Factory-produced boom-mounted personnel platforms that incorporate a winch as original equipment: Loads are permitted to be hoisted by such a winch while employees occupy the personnel platform only where the load on the winch line does not exceed five hundred pounds and does not exceed the rated capacity of the winch and platform, and does not exceed fifty percent of the crane's rated capacity at the radius and configuration used;

(p) Not disable, or allow to be disabled, any crane/derrick safety device during a personnel lift;

(q) Hoist the platform at a speed suitable for the safety of the operation but in no case in excess of ninety feet/minute (30 m/minute) or 1.5 feet/second (0.5 m/second).

(2) The operator must not move the platform without a discernible or audible signal from a signal person.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-55300 Personnel lifting requirements. (1) Conditions must provide clear visibility. When conditions such as darkness, fog, or snow prevent clear visibility, a personnel lift must not be performed.

(2) Personnel platforms cannot be used in winds (sustained or gusts) in excess of twenty mph (32.2 km/hr) or in

electric storms, snow, ice, sleet, or other adverse weather conditions which could affect the safety of personnel.

(3) Other weather and environmental conditions. A qualified person must determine if, in light of indications of dangerous weather conditions, or other impending or existing danger, it is not safe to lift personnel. If it is not, the lifting operation must not begin (or, if already in progress, must be terminated).

(4) Personnel platforms must only be used for personnel, their tools, and sufficient material to do their work. They must not be used for solely transporting bulk materials.

(5) The number of employees occupying the personnel platform must not exceed the maximum number the platform was designed to hold or the number required to perform the work, whichever is less.

(6) A qualified person must evaluate the safety concerns of the operational environment and verify the platform and crane/derrick are suitable for use. Additionally, special work circumstances may require further precautions. Precautions such as, but not limited to, the following must be taken:

(a) When welding is to be accomplished from the personnel platform, suitable electrode holders must be provided to protect them from contact with any conducting components of the platform.

(b) Operators of cranes/derricks, installed on floating vessels, must be instructed not to lift personnel when the list or trim of the vessel exceeds five degrees. If a mobile crane/derrick is placed on floating vessels, operators must not lift personnel when the list or trim of the vessel exceeds one degree.

(c) Personnel fall protection devices with quick release features must be provided and required to be worn. The fall protection device must be appropriately attached while personnel are lifted over land and detached while personnel are lifted over water. See Part C-1 of this chapter for requirements for fall arrest system, including the attachment point (anchorage) used to comply with this subsection. When personnel lifts are conducted over water, U.S. Coast Guard approved (Type I, II, III, or V) personnel flotation devices must be provided and required to be worn.

(d) A boat/skiff with appropriate rescue personnel must be readily available at all times during a personnel lift over water.

(e) Appropriate personnel protective equipment must be provided and required to be used around toxic, flammable, or hazardous substances or fumes.

(f) Any concentrated loading of the platform must be reviewed to preclude the overstressing of any component or impairing the platform stability.

(g) Where the rotation of the platform, while hoisted, can create a hazard, appropriate restraining methods must be provided and required to be used.

(7) In order to safely perform the personnel lift, make sure the following are met:

(a) The personnel platform is **not** loaded with more than its rated load capacity;

(b) Materials and tools being lifted by a platform are:

(i) Secured to prevent movement;

(ii) Evenly distributed on the platform.

(c) The personnel platform is hoisted slowly, with no sudden movements;

(d) Tag lines are used to control the motion of suspended platforms, unless using them creates a hazard;

(e) The platform is secured to the structure where the work will be performed before employees exit or enter the platform, unless securing to the structure is unsafe;

(f) No other load lines on the crane or derrick are used to lift anything while personnel are on a platform;

(g) Brakes and locking devices are engaged when the personnel platform is occupied and in a stationary working position;

(h) The lowering motion of the hoist line and/or the boom is power-controlled only. Free fall is **not** allowed;

(8) The platform operation instructions in this rule are intended as minimum criteria. The platform manufacturer's information must be consulted for specific instruction on the platform's operation.

(9) Traveling.

(a) Rubber tired cranes are not allowed to travel while lifting personnel. Hoisting of employees while the crane is traveling is only allowed when:

(i) The crane travels on fixed rails; or

(ii) The crane has crawlers and is on a runway, and the employer demonstrates that there is no less hazardous way to perform the work.

(b) Where employees are hoisted while the crane is traveling, the following criteria must be met:

(i) Crane travel must be restricted to a fixed track or runway.

(ii) Where a runway is used, it must be a firm, level surface designed, prepared and designated as a path of travel for the weight and configuration of the crane/derrick being used to lift and travel with the personnel platform. An existing surface may be used as long as it meets these criteria.

(iii) Travel must be limited to boom length.

(iv) The boom must be parallel to the direction of travel, except where it is safer to do otherwise.

(v) A complete trial run must be performed to test the route of travel before employees are allowed to occupy the platform. This trial run can be performed at the same time as the trial lift required by WAC 296-155-55115 which tests the lift route.

(10) Derricks are prohibited from traveling while personnel are hoisted.

(11) Platform occupants must remain in continuous sight or in communication with the operator and in sight and communication of a signal person.

(12) Platform occupants must use personnel protective equipment, such as hard hats, safety glasses, hearing protection, and gloves, in conditions where a hazard of injury exists.

(13) Platform occupants must wear personnel fall protection devices with lanyards attached to a specific anchorage point(s), unless special work circumstance requirements dictate otherwise, such as working over water.

(14) Platform occupants must keep all parts of the body inside the platform during raising, lowering, and horizontal movement. This provision does not apply to an occupant of

the platform when necessary to position the platform or while performing the duties of a signal person.

(15) Platform occupants must not stand, sit on, or work from the top rail, intermediate rail, toe board, or use any other device to enhance their vertical height working capability.

(16) Platform occupants must not pull the platform out of plumb in relation to the crane/derrick.

(17) Platform occupants must not enter or exit a suspended platform while it is raised unless the platform has an installed gate and is physically secured to the structure to which the occupants are entering or exiting unless the employer can demonstrate that securing to the structure would create a greater hazard.

(18) Platform occupants must not operate a platform with motion controls without the platform operation manual available in the platform.

(19) If the platform is tied to the structure, the operator must not move the platform until the operator receives confirmation that it is freely suspended.

(20) The platform must be inspected prior to each lift to verify all attachments and the platform are safe to use.

(21) Verify the platform is evenly loaded, material secured, and the total platform weight does not exceed the platform rating or the reduced crane/derrick lift capacity.

(22) Communication requirements.

(a) Hand signals to the operator must be in accordance with the applicable crane/derrick portion of this part.

(b) Signals must be discernable or audible to the operator.

(c) Hand signals must be posted conspicuously at the following locations:

(i) On the crane/derrick as required by this part.

(ii) Inside the personnel platform.

(iii) At any platform motion control locations.

(d) Some operations may require additions to or modifications of standard signals.

(i) Any special signals must be agreed upon and understood by the signal persons and crane/derrick operator.

(ii) Special signs must not conflict with the crane/derrick standard signals.

(e) No response must be made unless signals are clearly understood.

(f) If communications between operator and platform occupants are disrupted, all operations must be stopped until communication is reestablished.

(g) Communication systems to be used during the lift must be verified as functioning and effective prior to commencing the lift.

Note: If radios or other electronic means of communication are used, they should operate on a secure channel.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-556 Rigging—General requirements. ((~~The rigging requirements in this part apply to all construction activities.~~))

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-55600 General requirements. (1) Employers must use at least one qualified rigger((~~s~~)) as follows:

(a) During hoisting activities for assembly and disassembly work (WAC 296-155-53402 (19)(a))((~~. Additionally, qualified riggers are required~~));

(b) Whenever ((~~workers~~)) employees are ((~~within the fall zone and~~)) engaged in hooking, unhooking, or guiding a load, or ((~~doing~~)) in the initial connection of a load to a component or structure, and are within the fall zone (WAC 296-155-53400 (43)(c)).

Note: See qualified rigger requirements located in WAC 296-155-53306.

(2) All slings in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ASME B30.9-2010.

(3) All rigging hardware in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ASME B30.26-2010.

(4) All rigging gear must be used in accordance with the manufacturer's recommendations or a qualified person.

(5) All below-the-hook lifting devices in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ASME B30.20-2010.

(6) All hooks in use must meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in ASME B30.10-2009.

(7) Repair of hooks must be approved by the manufacturer or qualified person and as follows:

(a) Cracks, nicks, and gouges may be repaired by a competent person, all other repairs are done by the manufacturer or a qualified person;

(b) Grind longitudinally, following the contour of the hook;

(c) Do not reduce the dimension of the hook more than ten percent from the original.

(8) Hooks must not be modified by welding and/or drilling unless written approval by the manufacturer has been received.

(9) Special custom design grabs, hooks, clamps, or other lifting accessories, for such units as modular panels, prefabricated structures and similar materials, must be marked to indicate the safe working loads and must be proof tested prior to use to one hundred and twenty-five percent of their rated load.

(10) A qualified person must inspect the rigging equipment before each day or shift and:

(a) Consider the application the equipment will be used for, and determine if it's safe for use;

(b) Remove the equipment from service if using it will create a hazard or meets any of the removal criteria listed in this chapter.

(((~~10~~))) (11) The rated load of the rigging equipment must not be exceeded.

(12) All rigging hardware must have permanently affixed and legible identification markings as prescribed by the manufacturer that indicate the recommended safe working load.

(((~~(11)~~))) (13) All rigging hardware must be inspected in accordance with Table 11, each day before using. If a daily inspection is not feasible because the hardware is in a semi-permanent or inaccessible location, a periodic inspection is allowed instead of daily.

(((~~(12)~~))) (14) Rigging hardware must be removed from service when it shows any conditions listed in Table 11, or any other hazardous condition.

Table 11
Rigging Hardware Inspection/Removal Criteria

For all hardware, inspect for the following:
Missing or illegible identification.
Indications of heat damage, including weld spatter or arc strikes.
Excessive pitting or corrosion.
Load bearing components that are: • Bent; • Twisted; • Distorted; • Stretched; • Elongated; • Cracked; • Broken.
Excessive nicks or gouges.
10% reduction of the original or catalog dimension at any point.
Excessive thread damage or wear, where applicable.
Evidence of unauthorized welding or modification.
Any other conditions that cause doubt as to the safety of continued use.
On **shackles,** also inspect for incomplete pin engagement.
On **swivels and swivel hoist rings,** check for lack of ability to freely rotate or pivot.
On **compression hardware,** also check for: Unauthorized replacement components; Insufficient number of wire rope clips; Improperly tightened wire rope clips; Damaged wire rope; Indications of wire rope slippage; Improper assembly.
On **swivels,** check for loose or missing nuts, bolts, cotter pins, snap rings, or other fasteners and retaining devices.
On **blocks** check for: • Loose or missing nuts, bolts, cotter pins, snap rings, or other fasteners and retaining devices; • Misalignment or wobble in sheaves; • Excessive sheave groove corrugation or wear.

(((~~(13)~~))) (15) Any alteration or modification of rigging hardware must be in accordance with the hardware manufacturer or a qualified person and proof load tested to one hundred twenty-five percent. This test must be documented and available upon request.

(((~~(14)~~))) (16) Welding of rigging hardware is prohibited unless authorized by the manufacturer or an RPE.

(((~~(15)~~))) (17) Replacement parts must meet or exceed the original rigging hardware manufacturer's specifications.

(((~~(16)~~))) (18) Rigging hardware selection must have the characteristics suitable for the application and environment where it will be used.

(((~~(17)~~))) (19) Workers must keep all parts of their body from between the load and any rigging during the lift.

(((~~(18)~~))) (20) If handling intermodal shipping containers at a construction site, the employer must follow the requirements in chapter 296-56 WAC, longshore, stevedore and waterfront related operations, Part F, Specialized terminals and the guidelines found in International Organization for Standardization (ISO) 3874 - Series 1 Freight Containers, fifth edition - Handling and Securing.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-55805 Wire rope slings. (1) Manufacturing wire rope slings.

(a) Wire rope slings must be made from new or unused regular lay wire rope. The wire rope must be manufactured and tested in accordance with ASTM A 1023-02 and ASTM A 586.

(b) The following fabrication methods must be used to make wire rope slings:

(i) Hand splicing;

(ii) Turnback eye;

(iii) Return loop;

(iv) Flemish eye mechanical splicing;

(v) Poured or swaged socketing.

(c) Wire rope slings must have a design factor of five.

(d) Wire rope slings must meet the requirements in Table 16.

(e) Using any of the following when making wire rope slings is prohibited:

(i) Rotation resistant wire rope;

(ii) Malleable cast iron clips;

(iii) Knots;

(iv) Wire rope clips, unless:

• The application of the sling prevents using prefabricated slings;

• The specific application is designed by a qualified person.

(f) Wire rope clips, if used, must be installed and maintained in accordance with the recommendations of the clip manufacturer or a qualified person, or in accordance with the provisions of ASME B30.26-2010.

(g) Slings made with wire rope clips must not be used as a choker hitch.

Note: If using wire rope clips under these conditions, follow the guidance given in Table 15.

Table 15

Number, Torque Values, and Turn Back Requirements for U-Bolt Wire Rope Clips				Number, Torque Values and Turn Back Requirements for Double Saddle (Fist Grip) Wire Rope Clips			
Clip & Wire Rope Size (inches)	**Min. No. of Clips**	**Amount of Rope Turn Back in Inches**	***Torque in Ft. Lbs.**	**Clip & Wire Rope Size (inches)**	**Min. No. of Clips**	**Amount of Rope Turn Back in Inches**	***Torque in Ft. Lbs.**
1/8	2	3-1/4	4.5	3/16-1/4	2	4	30
3/16	2	3-3/4	7.5	5/16	2	5	30
1/4	2	4-3/4	15	3/8	2	5-1/4	45
5/16	2	5-1/4	30	7/16	2	6-1/2	65
3/8	2	6-1/2	45	1/2	3	11	65
7/16	2	7	65	9/16	3	12-3/4	130
1/2	3	11-1/2	65	5/8	3	13-1/2	130
9/16	3	12	95	3/4	4	16	225
5/8	3	12	95	7/8	4	26	225
3/4	4	18	130	1	5	37	225
7/8	4	19	225	1-1/8	5	41	360
1	5	26	225	1-1/4	6	55	360
1-1/8	6	34	225	1-3/8	6	62	500
1-1/4	7	44	360	1-1/2	7	78	500
1-3/8	7	44	360				
1-1/2	8	54	360				
1-5/8	8	58	430				
1-3/4	8	61	590				
2	8	71	750				
2-1/4	8	73	750				
2-1/2	9	84	750				
2-3/4	10	100	750				
3	10	106	1200				
3-1/2	12	149	1200				

* The tightening torque values shown are based upon the threads being clean, dry, and free of lubrication.

Table 16
Wire Rope Sling Configuration Requirements

If you have:	Then you need:
• Slings made of rope with 6x19 and 6x36 classification. • Cable laid slings.	A minimum clear length of rope ten times the rope diameter between splices, sleeves, or end fittings (see Figure 15, Minimum Sling Length) unless approved by a qualified person.
• Braided slings.	A minimum clear length of rope forty times the component rope diameter between the loops or end fittings (see Figure 16, Minimum Braided Sling Length) unless approved by a qualified person.
• Grommets and endless slings.	A minimum circumferential length of ninety-six times the body diameter of the grommet or endless sling unless approved by a qualified person.
• Other configurations.	Specific limitation data provided by a qualified person. These slings must meet all other requirements of ASME B30.9-2010.

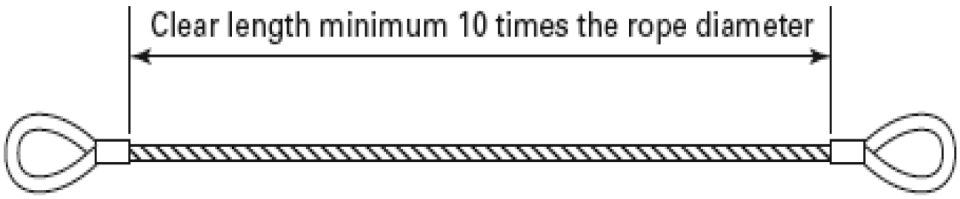


Figure 15
Minimum Sling Length
For rope with 6x19 and 6x36 classification
or Cable Laid Slings

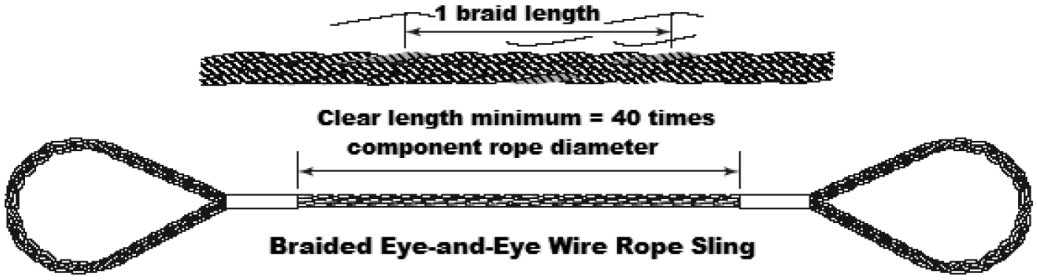


Figure 16 Minimum Braided Sling Length

(2) Wire rope sling fittings.

(a) Fittings must be used according to the fitting manufacturer's directions.

(b) Rate slings with the load capacity of the lowest rated component of the sling. For example, if you use fittings that are rated lower than the sling material itself, identify the sling with the lower rated capacity.

(c) Weld any end attachments, except covers to thimbles, before assembling the sling.

(3) Identification information. All wire rope slings must have legible identification information attached to the sling which includes the information below, see sample tag in Figure 17. For slings in use that are manufactured before the effective date of this rule, the information below must be added before use or at the time the periodic inspection is completed.

(a) Name or trademark of the manufacturer.

(b) Diameter or size.

(c) Rated loads for the types of hitches used and the angle that the load is based on.

(d) Number of legs, if more than one.

(e) Repairing agency, if the sling is ever repaired.

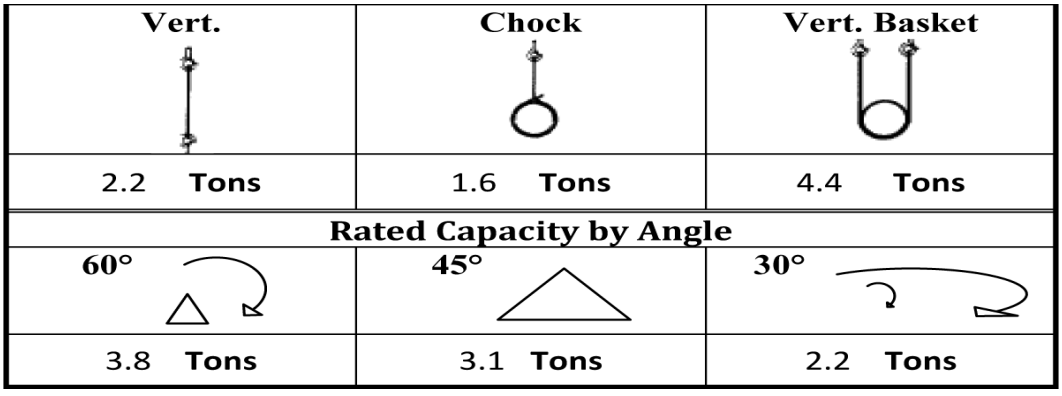


Figure 17 Sample Wire Rope Sling ID Tag

Note: Sample tag for a 1/2" single-leg sling 6x19 or 6x36 classification, extra improved plow steel (EIPS) grade fiber core (FC) wire rope with a mechanical splice (ton = 2,000 lb).

(4) Inspection.

(a) A qualified person must inspect wire rope slings before their initial use, according to Table 17, both:

(i) When the sling is new; and

(ii) Whenever a repair, alteration, or modification has been done.

(b) A qualified person must perform a visual inspection for damage, each day or shift the wire rope sling is used:

(i) Include all fastenings and attachments;

(ii) Immediately remove any sling from service that is damaged beyond the criteria listed in Table 17; or

(iii) Remove fiber core wire rope slings that have been exposed to temperatures higher than one hundred eighty degrees Fahrenheit.

(c) A qualified person must perform periodic inspections on wire rope slings according to Table 17.

(5) Repair, alterations, or modifications.

(a) Repair wire rope slings as follows:

(i) Make sure slings are only repaired by the sling manufacturer or a qualified person;

(ii) Mark the sling to show the repairing agency;

(iii) Do not repair wire rope used in slings, wire rope must be replaced. Only end attachments and fittings can be repaired on a wire rope sling.

(b) Modification or alterations to end attachments or fittings must be considered as repairs and must conform to all other provisions of this part.

(c) Proof load test repaired slings according to the requirements in subsection (6) of this section.

(6) Proof load tests. Make sure the sling manufacturer or a qualified person proof load tests the following slings before initial use, according to Table 18:

(a) All repaired slings;

(b) All slings incorporating previously used or welded fittings;

(c) For single- or multiple-leg slings and endless slings, each leg must be proof loaded according to the requirements listed in Table 18 based on fabrication method. The proof load test must not exceed fifty percent of the component ropes' or structural strands' minimum breaking strength;

Table 7
Wire Rope Sling Inspection and Removal Criteria

Inspect wire rope slings for the following conditions:	Perform inspections:
• Missing or illegible sling identification. • Severe localized abrasion or scraping. • Kinking, crushing, birdcaging, or any other condition resulting in damage to the rope structure.	• At least once a year for slings in normal service.
• Evidence of heat damage.	• At least once a quarter for slings in severe service.
• Severe corrosion of the rope, end attachments, or fittings.	• As recommended by a qualified person for slings in special service.
• End attachments that are cracked, deformed, or worn to the extent that the strength of the sling is substantially affected. • Broken wires: – For strand-laid and single-part slings, ten randomly distributed broken wires in one rope lay, or five broken wires in one strand in one rope lay; – For cable-laid slings, twenty broken wires per lay; – For six-part braided slings, twenty broken wires per braid; – For eight-part braided slings, forty broken wires per braid. • Hooks that have any of the following conditions: – Any visibly apparent bend or twist from the plane of the unbent hook; – Any distortion causing an increase in throat opening five percent, not to exceed one-quarter inch, or as recommended by the manufacturer; – Wear exceeding ten percent, of the original section dimension of the hook or its load pin, or as recommended by the manufacturer; – Self-locking mechanism that does not lock.	

Inspect wire rope slings for the following conditions:	Perform inspections:
• Other visible damage that raises doubt about the safety of the sling.	

Table 18
Wire Rope Sling Proof Load Test Requirements

Type of equipment:	Proof load test:
• Mechanical splice slings.	Each leg to at least two times the single leg vertical hitch rated load.
• Swaged socket and poured socket slings.	Each leg to at least two times, but not more than two and one-half, times the single-leg vertical hitch rated load.
Note: For mechanical splice, swaged socket and poured socket slings follow the rope manufacturer's recommendations for proof load testing provided that it is within the above-specified proof load range, including (c) of this subsection.	
• Hand tucked slings, if proof load tested.	To at least one, but not more than one and one-quarter, times the single-leg vertical hitch rated load.

(d) The proof load test for components (fittings) attached to single legs must meet the requirements in (c) of this subsection;

(e) Proof load testing for master links must be in accordance with Table 19.

Table 19
Proof Load Test for Master Links on Wire Rope Slings

• Master links for two-leg bridle slings.	To at least four times the single-leg vertical hitch rated load.
• Master links for three-leg bridle slings.	To at least six times the single-leg vertical hitch rated load.
• Master links for four-leg bridle slings.	To at least eight times the single-leg vertical hitch rated load.

(7) Rated load. The term "rated capacity" is commonly used to describe rated load.

Note: Rated loads are based on the following factors:
- Strength of sling material;
- Design factor;
- Type of hitch;
- Angle of loading (see Figure 18, Angle of Loading);
- Diameter of curvature over which the sling is used (D/*d*) (see Figure 19, D/*d* ratio);
- Fabrication efficiency.

(a) Wire rope slings must be used within the rated loads shown in Tables 7 through 15 in ASME B30.9-2010. For angles that are not shown in these tables, either use the rated load for the next lower angle or have a qualified person calculate the rated load.

(b) Prohibit the use of horizontal sling angles less than thirty degrees unless recommended by the sling manufacturer or a qualified person. See Figure 18.

(c) Rated loads for slings used in a choker hitch must conform to the values shown in the above referenced tables, provided that the angle of choke is one hundred twenty degrees or greater. See Figure 20 and Table 20, Angle of Choke.

(d) Use either Figure 20 and Table 20, the manufacturer, or a qualified person to determine the rated load if the angle of choke in a choker hitch is less than one hundred twenty degrees.

(i) Inspect the entire length of the sling including splices, end attachments, and fittings.

(ii) Remove slings from use if any of the conditions in Table 17 are found.

(iii) Keep a record of the most recent periodic inspection available, including the condition of the sling.

Note: An external code mark on the sling is an acceptable means of recording the inspection as long as the code can be traced back to a record.

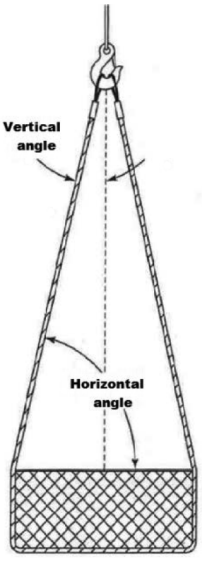


Figure 18
Angle of Loading

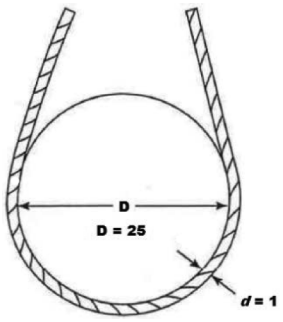


Figure 19
D/*d* Ratio

Note: When D is 25 times the component rope diameter (*d*) the D/*d* ratio is expressed as 25/1.

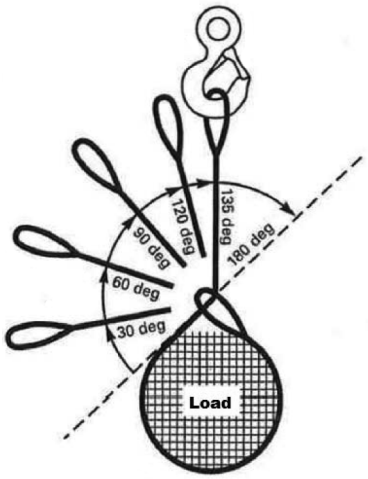


Figure 20
Angle of Choke

Table 20
Angle of Choke

Angle of Choke, deg.	Rated Capacity, %
Over 120	100
90 - 120	87
60 - 89	74
30 - 59	62
0 - 29	49

Note: Percent of sling rated capacity in a choker hitch.

(8) Use of wire rope slings.

(a) Hitch the slings in a way that provides control of the load.

(b) Shorten or adjust slings using only the methods approved by the manufacturer or qualified person.

• Do **not** shorten or lengthen by knotting, twisting, or by wire rope clips.

(c) Keep all parts of the human body from between the sling and the load, crane, or hoist hook.

(d) Protruding ends of strands in splices on slings and bridles must be covered or blunted.

(e) A sling must not be pulled from under a load when the load is resting on the sling.

(f) Prohibit all of the following:

(i) Intentional shock loading;

(ii) Avoid twisting and kinking.

(((~~(e)~~))) (g) Decrease the rated load of the sling when D/*d* ratios (Figure 19) smaller than twenty-five to one. Consult the sling manufacturer for specific data or refer to the *Wire Rope Sling User's Manual* (wire rope technical board).

(((~~(f)~~))) (h) Follow Table 21, Use of Wire Rope Slings or Clips, when using any of the identified wire rope slings or clips.

(((~~(g)~~))) (i) Slings in contact with edges, corners, or protrusions must be protected with a material of sufficient strength, thickness, and construction to prevent damage to the sling. See Figure 14.

Table 21
Use of Wire Rope Slings or Clips

If you are using:	Then:
Single leg slings used with multiple-leg slings.	Make sure the rating shown is not exceeded in any leg of the multiple-leg sling.
Hand tucked slings are used in a single leg vertical lift.	Do not allow the sling or load to rotate.
Slings made with wire rope clips.	Must not be used as a choker hitch.
U-bolt wire rope clips.	Use only U-bolt wire rope clips that are made of drop-forged steel.
	Follow Table 15 for the number and spacing of the clips.
	Apply the U-bolt so the "U" section is in contact with the dead end of the rope (see Figure 21, Installation and Loading).

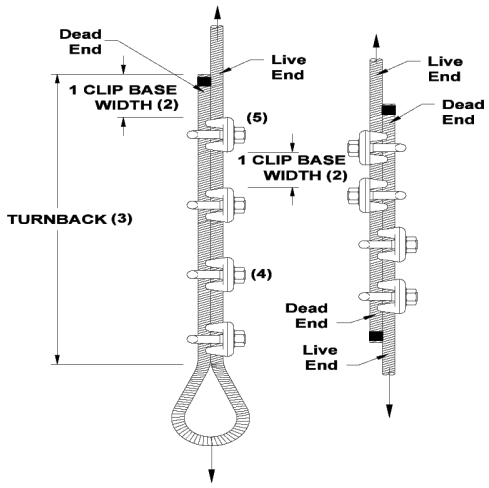


Figure 21
Installation and Loading

Proper Installation Requires

- Correct number of clips for wire rope size
- Correct spacing of clips
- Correct turnback length
- Correct torque on nuts
- Correct orientation of saddle on live end

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-55820 Synthetic webbing slings. (1) Identification. Make sure all slings have legible identification information permanently attached to the sling which includes the following information:

(a) Name or trademark of the manufacturer;

(b) Manufacturer's code or stock number;

(c) Rated loads for the types of hitches used, and the angle that the load is based on;

(d) Type of synthetic web material;

(e) Number of legs, if more than one;

(f) Repairing agency, if the sling is ever repaired.

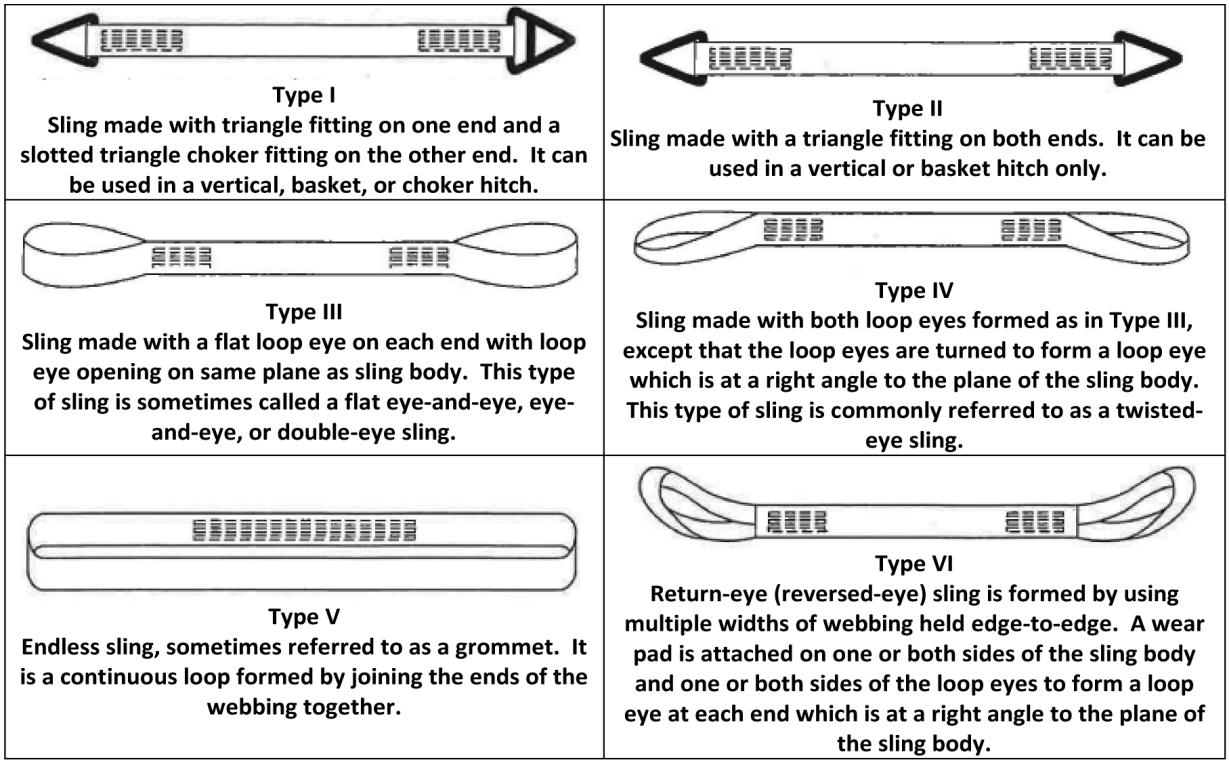


Figure 25
Synthetic Webbing Slings

(2) Inspection.

(a) A qualified person must inspect synthetic webbing slings before their initial use, according to Table 25:

(i) When the sling is new; and

(ii) Whenever a repair, alteration, or modification has been done.

(b) A qualified person must perform a visual inspection for damage, each day or shift the synthetic webbing sling is used. Immediately remove from service any sling that is damaged beyond the criteria listed in Table 25.

(c) A qualified person must perform periodic inspections on synthetic webbing slings, according to Table 25.

(i) Examine each sling and component individually, taking care to expose and examine all surfaces.

(ii) Remove slings from use if any of the conditions in Table 25 are found.

(iii) Keep a written record of the most recent periodic inspection available, including the condition of the sling.

Note: An external code mark on the sling is an acceptable means of recording the inspection as long as the code can be traced back to a record.

Table 25
Synthetic Webbing Sling Inspection

Inspect synthetic webbing slings for the following conditions:	Perform inspections:
• Missing or illegible sling identification; • Acid or caustic burns; • Melting or charring on any part of the sling; • Holes, tears, cuts or snags; • Broken or worn stitching in load bearing splices;	• At least once a year for slings in normal service; • At least once a quarter for slings in severe service; • As recommended by a qualified person for slings in special service.

Inspect synthetic webbing slings for the following conditions:	Perform inspections:
• Excessive abrasive wear; • Knots in any part of the sling; • Discoloration, brittle fibers, and hard or stiff areas that may indicate chemical or ultraviolet/sunlight damage; • Fittings that are pitted, corroded, cracked, bent, twisted, gouged or broken; • Hooks that have any of the following conditions: – Any visibly apparent bend or twist from the plane of the unbent hook; – Any distortion causing an increase in throat opening five percent, not to exceed one-quarter inch, or as recommended by the manufacturer; – Wear exceeding ten percent, of the original section dimension of the hook or its load pin, or as recommended by the manufacturer; – Self-locking mechanism that does not lock. • Other visible damage that causes doubt about the safety of continued use of the sling.	

(3) Repair, alterations, or modifications.

(a) Meet the following requirements when repairing synthetic webbing slings:

(i) Slings are only to be repaired by the manufacturer or a qualified person;

(ii) Temporary repairs are prohibited;

(iii) Mark the sling to show the repairing agency;

(iv) Components used for sling repair must meet the requirements of this part;

(v) Cracked, broken, melted, or otherwise damaged webbing material or fittings other than hooks must not be repaired;

(vi) Load bearing splices must not be repaired;

(b) Proof load test repaired slings according to the requirements in subsection (4) of this section.

(4) Proof load test. The sling manufacturer or a qualified person must proof load test repaired slings and slings that have been altered or modified before initial use according to Table 26:

Table 26
Synthetic Webbing Sling Proof Test Requirements

Type of equipment:	Proof load test:
• Single leg slings; • Multiple leg slings; • Endless slings; • Fittings attached to single legs.	To a minimum of two times the single leg vertical hitch rated load.
Master links for two-leg bridle slings.	To a minimum of four times the single leg vertical hitch rated load.
Master links for three-leg bridle slings.	To a minimum of six times the single leg vertical hitch rated load.
Master links for four-leg bridle slings.	To a minimum of eight times the single leg vertical hitch rated load.

(5) Rated loads.

Note: Rated loads are based on the following factors:
- Strength of the material;
- Design factor;
- Type of hitch;
- Angle of loading (see Figure 18, Angle of Loading);
- Fabrication efficiency;
- Diameter of curvature over which the sling is used.

(a) Synthetic web slings must be used within the rated loads shown in Tables 20 through 24 in ASME B30.9-2010. For angles that are not shown in these tables, use either the rated load for the next lower angle or one calculated by a qualified person.

(b) Rate slings with the load capacity of the lowest rated component of the sling. For example, if you use fittings that are rated lower than the sling material itself, identify the sling with the lower-rated capacity.

(c) The use of horizontal sling angles less than thirty degrees is prohibited, unless recommended by the sling manufacturer or a qualified person. (See Figure 18.)

(d) Use Figure 20, Angle of Choke, the manufacturer, or a qualified person to determine the rated load if the angle of choke in a choker hitch is less than one hundred twenty degrees.

(e) Rated loads for slings used in a choker hitch must conform to the values shown in the above referenced tables, provided that the angle of choke is one hundred twenty degrees or greater. (See Figure 20.)

(6) Use of synthetic webbing slings.

(a) Use synthetic webbing slings safely by meeting all of the following requirements:

(i) Shorten or adjust slings only with methods approved by the manufacturer or qualified person;

(ii) Slings must not be shortened or lengthened by knotting or twisting;

(iii) Hitch slings in a way that provides control of the load;

(iv) Protect slings with material of sufficient strength, thickness, and construction to prevent damage from sharp edges, corners, protrusions, or abrasive surfaces. See Figure 14;

(v) Keep all parts of the human body from between the sling and the load, crane, or hoist hook((~~.~~
~~(b)~~));

(vi) Fittings must be of a minimum breaking strength equal to that of the sling.

(b) Webbing. Synthetic webbing must be of uniform thickness and width and selvage edges must not be split from the webbing's width.

(c) Intentional shock loading is prohibited.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-56100 General requirements. (1) Inspections.

(a) A qualified person must perform an inspection on all hardware according to Table 29, each day before using. If a daily inspection is not feasible because the hardware is in a semipermanent or inaccessible location, a periodic inspection is allowed instead of daily.

(b) Hardware must be removed from service when it shows any conditions listed in Table 29, or any other hazardous condition.

Table 29
Hardware Inspection

For all hardware, inspect for the following:
• Missing or illegible identification. • For shackles, missing or illegible manufacturer's name or trademark and/or rated load identification.
• Indications of heat damage, including weld spatter or arc strikes.
• Excessive pitting or corrosion.
• Load bearing components that are: – Bent. – Twisted. – Distorted. – Stretched. – Elongated. – Cracked. – Broken.
• Excessive nicks or gouges. For riggings blocks, excessive nicks, gouges and wear.
• Ten percent reduction of the original or catalog dimension at any point. For shackles, this includes at any point around the body or pin.
• Excessive thread damage or wear, where applicable.
• Evidence of unauthorized welding or modification.
• Any other conditions that cause doubt as to the safety of continued use.
• On **shackles,** also inspect for incomplete pin engagement.
• On **swivels and swivel hoist rings,** check for lack of ability to freely rotate or pivot.
• On **compression hardware,** also check for: – Unauthorized replacement components. – Insufficient number of wire rope clips. – Improperly tightened wire rope clips. – Damaged wire rope. – Indications of wire rope slippage. – Improper assembly.
• On **swivels,** check for loose or missing nuts, bolts, cotter pins, snap rings, or other fasteners and retaining devices.
• On **blocks** check for: – Loose or missing nuts, bolts, cotter pins, snap rings, or other fasteners and retaining devices. – Misalignment or wobble in sheaves. – Excessive sheave groove corrugation or wear.

(2) Repairs, alterations, or modifications.

(a) Rigging hardware must be repaired, altered or modified according to the hardware manufacturer or a qualified person.

(b) Welding of hardware is prohibited unless authorized by the manufacturer.

(c) Replacement parts must meet or exceed the original rigging hardware manufacturer's specifications.

(3) Hardware use.

(a) Hardware must be selected with the characteristics suitable for the application and environment where it will be used.

(b) The rated load of the hardware must not be exceeded.

(c) ((~~All personnel~~)) At least one of the workers using rigging hardware must meet the requirements of WAC 296-155-53306.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-56400 Mobile crane hand signal chart.

((~~STRICKEN GRAPHIC~~

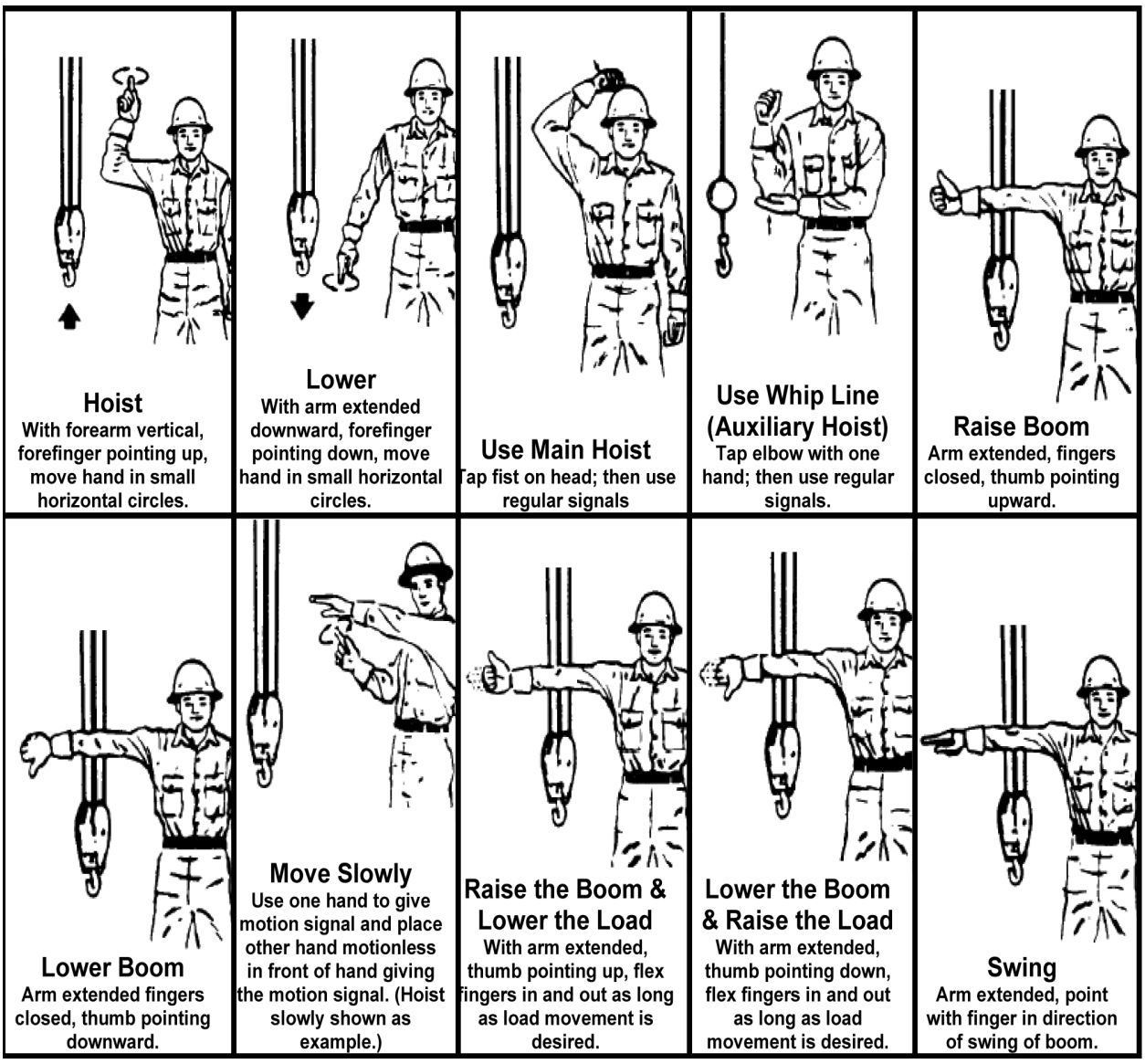


Figure 40~~STRICKEN GRAPHIC~~))

((~~STRICKEN GRAPHIC~~

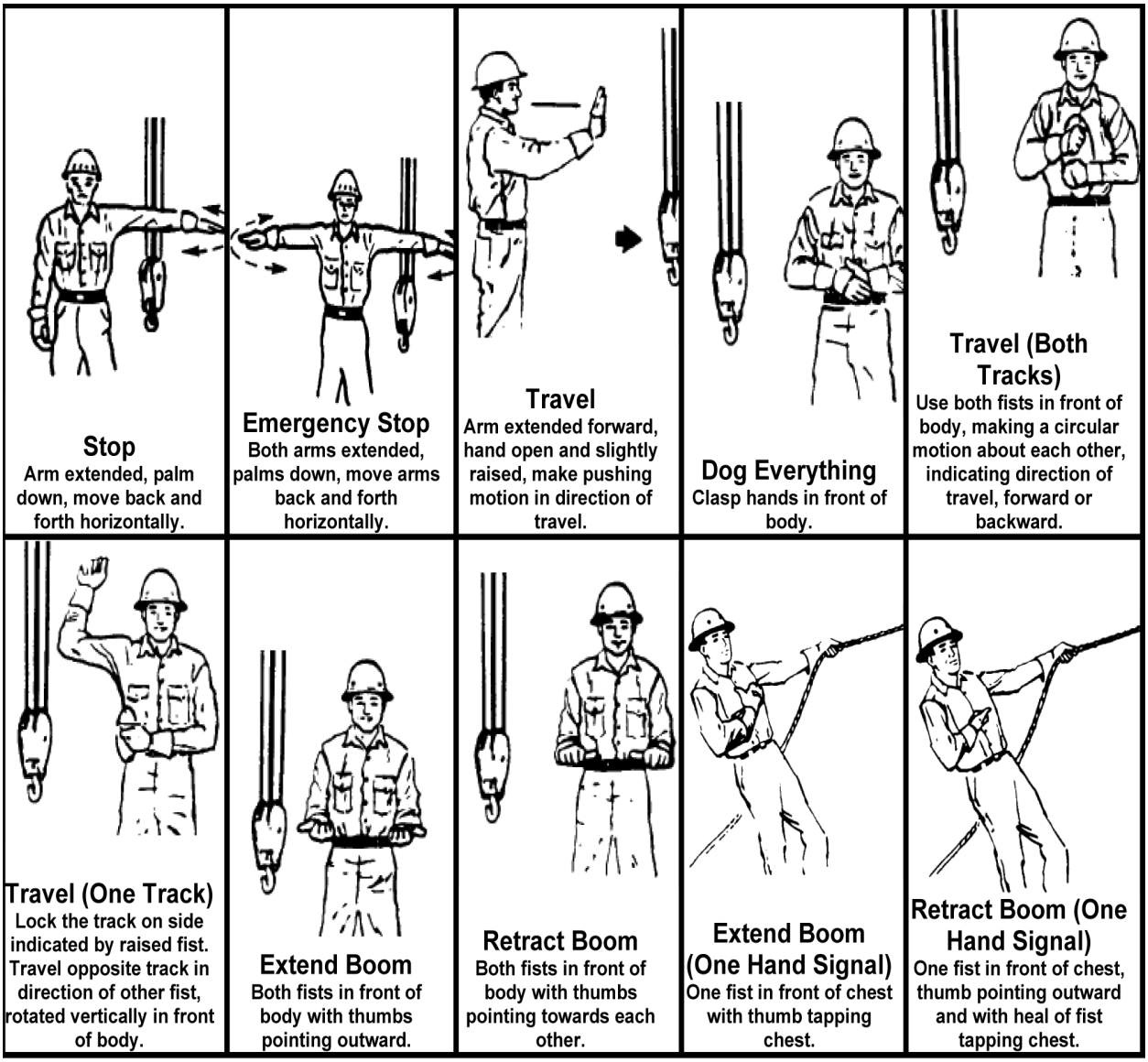


Figure 40~~STRICKEN GRAPHIC~~))

See ASME B30.5-2011, Standard hand signals for controlling crane operations.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

WAC 296-155-704 Hoisting and rigging. (1) All the applicable provisions of Part L of this chapter apply to hoisting and rigging.

(2) In addition, subsections (3) through (5) of this section apply regarding the hazards associated with hoisting and rigging.

(3) **General.**

(a) Crane preshift visual inspection.

(i) Cranes being used in steel erection activities must be visually inspected prior to each shift by a competent person. The inspection must include observation for deficiencies during operation and, as a minimum, must include:

• All control mechanisms for maladjustments;

• Control and drive mechanism for excessive wear of components and contamination by lubricants, water or other foreign matter;

• Safety devices, including boom angle indicators, boom stops, boom kick out devices, anti-two block devices, and load moment indicators where required;

• Air, hydraulic, and other pressurized lines for deterioration or leakage, particularly those which flex in normal operation;

• Hooks and latches for deformation, chemical damage, cracks, or wear;

• Wire rope reeving for compliance with hoisting equipment manufacturer's specifications;

• Electrical apparatus for malfunctioning, signs of excessive deterioration, dirt, or moisture accumulation;

• Hydraulic system for proper fluid level;

• Tires for proper inflation and condition;

• Ground conditions around the hoisting equipment for proper support, including ground settling under and around outriggers, ground water accumulation, or similar conditions;

• The hoisting equipment for level position; and

• The hoisting equipment for level position after each move and setup.

(ii) If any deficiency is identified, an immediate determination must be made by the competent person if the deficiency constitutes a hazard.

(iii) If the deficiency constitutes a hazard, the hoisting equipment must be removed from service until the deficiency has been corrected.

(iv) The operator is responsible for those operations under their direct control. Whenever there is any doubt as to safety, the operator must have the authority to stop and refuse to handle loads until safety has been assured.

(b) A qualified ((~~person (a rigger who is also a qualified person) must inspect the rigging~~)) rigger (when a crane/derrick is being used as the hoisting machinery) is a rigger that meets the requirements in WAC 296-155-53306 and all rigging gear must be inspected prior to each shift in accordance with WAC 296-155-556 through 296-155-56220. A qualified rigger (when hoisting machinery other than a crane/derrick is being used) must meet the requirements in WAC 296-155-33700 and all rigging gear must be inspected prior to each shift in accordance with WAC 296-155-337 through 296-155-34025.

(c) The headache ball, hook or load must not be used to transport personnel, except as provided in (d) of this subsection.

(d) Cranes or derricks may be used to hoist employees on a personnel platform when work under this part is being conducted if all the applicable provisions of Part L of this chapter are met.

(e) Safety latches on hooks must not be deactivated or made inoperable except:

(i) When a qualified rigger has determined that the hoisting and placing of purlins and single joists can be performed more safely by doing so; or

(ii) When equivalent protection is provided in a site-specific erection plan.

(4) **Working under loads.**

(a) Routes for suspended loads must be preplanned to ensure that no employee works directly below a suspended load except when:

(i) Engaged in the initial connection of the steel; or

(ii) Necessary for the hooking or unhooking of the load.

(b) Whenever workers are within the fall zone and hooking, unhooking, or guiding a load, or doing the initial connection of a load to a component or structure (WAC 296-155-53400 (43)(c)), the following criteria must be met:

(i) Materials being hoisted must be rigged to prevent unintentional displacement;

(ii) Hooks with self-closing safety latches or their equivalent must be used to prevent components from slipping out of the hook; and

(iii) All loads must be rigged by a qualified rigger.

(5) **Multiple lift rigging procedure.**

(a) A multiple lift must only be performed if the following criteria are met:

• A multiple lift rigging assembly is used;

• A multiple lift is only permitted when specifically within the manufacturer's specifications and limitations;

• A maximum of five members are hoisted per lift;

Exception: Bundles of decking must not be lifted using the multiple lift rigging procedure, even though they meet the definition of structural members in WAC 296-155-702.

• Only beams and similar structural members are lifted; and

• All employees engaged in the multiple lift have been trained in these procedures in accordance with WAC 296-155-717 (3)(a).

(b) Components of the multiple lift rigging assembly must be specifically designed and assembled with a maximum capacity for total assembly and for each individual attachment point. This capacity, certified by the manufacturer or a qualified rigger, must be based on the manufacturer's specifications with a five to one safety factor for all components.

(c) The total load must not exceed:

• The rated capacity of the hoisting equipment specified in the hoisting equipment load charts; and

• The rigging capacity specified in the rigging-rating chart.

(d) The multiple lift rigging assembly must be rigged with members:

• Attached at their center of gravity and maintained reasonably level;

• Rigged from top down; and

• Rigged at least seven feet (2.1 m) apart.

(e) The members on the multiple lift rigging assembly must be set from the bottom up.

(f) Controlled load lowering must be used whenever the load is over the connectors.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-155-329	Qualified person—Rigging.

WSR 12-20-056
PROPOSED RULES
NORTHWEST CLEAN AIR AGENCY

[Filed October 2, 2012, 10:37 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Regulation of the Northwest Clean Air Agency (NWCAA).

Hearing Location(s): NWCAA, 1600 South Second Street, Mount Vernon, WA 98273, on November 6, 2012, at 9:00 a.m.

Date of Intended Adoption: November 8, 2012.

Submit Written Comments to: Mark Buford, NWCAA, 1600 South Second Street, Mount Vernon, WA 98273, e-mail mark@nwcleanair.org, fax (360) 428-1620, by November 6, 2012, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Laurie Caskey-Schreiber by October 30, 2012, (360) 428-1617 ext. 215.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

- Clarify in the NWCAA rules the requirement for reasonably available control technology (RACT) for all existing sources pursuant to RCW 70.94.154 and to describe how the RACT program is implemented. (New NWCAA Section 309.)
- Clarify the existing requirements to better reflect the requirements in the RCW regarding orders, including issuance, fee assessment, appeals, and relation to enforcement. (NWCAA Sections 121, 122, 123, 131, 324.) See Derivation and Distribution lists shown below for changed sections.
- In NWCAA Section 104.1, exclude the adoption-by-reference to the RACT requirement in WAC 173-400-040(1) in favor of the RACT program proposed to be listed in the NWCAA rule. This will clarify the regulatory pathway for the RACT program. (NWCAA Section 104.)
- Update the effectiveness dates under NWCAA Section 104 to ensure that the most recent versions of the referenced regulations are adopted. (NWCAA Section 104.)
- Update the cross-reference in NWCAA Section 350 to reflect the renumbering of certain sections and update to reflect current NWCAA rule numbering template.

New/Amended Regulation Section Derivations:

Amended NWCAA 121.1: Based on RCW 70.94.141(3) and new language.

Amended NWCAA 121.2: New language.

Amended NWCAA 121.3: New language.

Amended NWCAA 121.4: New language.

Amended NWCAA 123.1: Based on RCW 70.94.221, 43.21B.230, and new language.

Amended NWCAA 123.2: Based on RCW 43.21B.310 (1) and (2).

Amended NWCAA 131.1: Based on RCW 70.94.211.

Amended NWCAA 131.2: Based on NWCAA 131.21 and 131.3.

New NWCAA 324.7: New language.

Distributions for Section Being Replaced:

Former NWCAA 121.1: Replaced by NWCAA 131.1.

Former NWCAA 121.2: Deleted.

Former NWCAA 121.3: Replaced by NWCAA 131.1.

Former NWCAA 121.4: Replaced by NWCAA 123.1.

Former NWCAA 122.1: Replaced by NWCAA 123.1.

Former NWCAA 122.2: Deleted.

Former NWCAA 123.3: Replaced by NWCAA 123.2.

Former NWCAA 123.4: Deleted.

Former NWCAA 123.5: Deleted.

Former NWCAA 131.2: Replaced by NWCAA 131.1.

Former NWCAA 131.2: Renumbered to NWCAA 131.2.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141 (1), (3), and 70.94.154.

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

Name of Proponent: NWCAA, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mark Asmundson, 1600 South Second Street, Mount Vernon, WA, (360) 428-1617

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable under RCW 70.94.141

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable under RCW 70.94.141.

October 2, 2012
Mark Buford
Assistant Director

AMENDATORY SECTION

Section 104 - ADOPTION OF STATE AND FEDERAL LAWS AND RULES

104.1 All provisions of State Law that are in effect as of October 1, 2012 ((~~July 18, 2012~~)), which are pertinent to the operation of the NWCAA, are hereby adopted by reference and made part of the Regulation of the NWCAA. Specifically, there is adopted by reference the portions pertinent to the operation of the NWCAA of the Washington State Clean Air Act (chapter 70.94 RCW), the Administrative Procedure((~~s~~)) Act (chapter 34.05 RCW) and chapters 43.21A and 43.21B RCW and the following state rules: chapter 173-400 WAC, (except - -035, -036, -040(1), -070(8), -075, -099, -100, -101, -102, -103, -104, -105(8), -110, -114, -115, -116, -171, -930), chapter 173-401 WAC, chapter 173-407 WAC, chapter 173-420 WAC, chapter 173-425 WAC, chapter 173-430 WAC, chapter 173-433 WAC, chapter 173-434 WAC, chapter 173-435 WAC, chapter 173-441 WAC, chapter 173-450 WAC, chapter 173-460 WAC, chapter 173-470 WAC, chapter 173-474 WAC, chapter 173-475 WAC, chapter 173-481 WAC, chapter 173-490 WAC, chapter 173-491 WAC, chapter 173-492 WAC, and chapter 173-495 WAC.

104.2 All provisions of the following federal rules that are in effect as of October 1, 2012 ((~~July 18, 2012~~)) are hereby adopted by reference and made part of the Regulation of the NWCAA: 40 CFR Part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) Appendix M; 40 CFR Part 60 (Standards of Performance For New Stationary Sources) subparts A, D, Da, Db, Dc, E, Ea, Eb, Ec, F, G, H, I, J, Ja, K, Ka, Kb, L, M, N, Na, O, P, Q, R, T, U, V, W, X, Y, Z, AA, AAa, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, VVa, WW, XX, AAA, BBB, DDD, FFF, GGG, GGGa, HHH, III, JJJ, KKK, LLL, NNN, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, WWW, AAAA, CCCC, EEEE, IIII, JJJJ, KKKK and

Appendix A - I; and 40 CFR Part 61 (National Emission Standards For Hazardous Air Pollutants) Subparts A, C, D, E, F, J, L, M, N, O, P, V, Y, BB, FF and 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) Subparts A, B, C, D, F, G, H, I, L, M, N, O, Q, R, T, U, W, X, Y, AA, BB, CC, DD, EE, GG, HH, II, JJ, KK, OO, PP, QQ, RR, SS, TT, UU, VV, WW, XX, YY, CCC, DDD, EEE, GGG, HHH, III, JJJ, LLL, MMM, NNN, OOO, PPP, QQQ, TTT, UUU, VVV, XXX, AAAA, CCCC, DDDD, EEEE, FFFF, GGGG, HHHH, IIII, JJJJ, KKKK, MMMM, NNNN, OOOO, PPPP, QQQQ, RRRR, SSSS, TTTT, UUUU, VVVV, WWWW, XXXX, YYYY, ZZZZ, AAAAA, BBBBB, CCCCC, DDDDD, EEEEE, FFFFF, GGGGG, HHHHH, IIIII, LLLLL, MMMMM, NNNNN, PPPPP, QQQQQ, RRRRR, SSSSS, TTTTT, YYYYY, ZZZZZ, CCCCCC, EEEEEE, FFFFFF, GGGGGG, MMMMMM, NNNNNN, SSSSSS, VVVVVV; and 40 CFR 72, 73, 74, 75, 76, 77 and 78 (Acid Rain Program).

PASSED: July 8, 1970 AMENDED: April 14, 1993, September 8, 1993, December 8, 1993, October 13, 1994, May 11, 1995, February 8, 1996, May 9, 1996, March 13, 1997, May 14, 1998, November 12, 1998, November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, June 10, 2010, June 9, 2011, November 17, 2011, August 9, 2012, November 8, 2012

AMENDATORY SECTION

Section 121 - ORDERS

121.1 The NWCAA may, by order, apply to a specific source or sources any applicable provision necessary to effectuate the purposes of chapter 70.94 RCW or the rules adopted thereunder. Orders of approval related to the establishment of a source are addressed under NWCAA 300, in lieu of the requirements in this section. General Orders of Approval are issued under WAC 173-400-560, in lieu of the requirements in this section. ((~~If the Board or Control Officer has reason to believe that any provision of this Regulation has been violated, the Board or Control Officer, may, in addition to any other remedy of law, issue an order, or orders, that the necessary corrective action be taken within a reasonable time. Such order or orders may advise methods for the prevention, abatement or control of the emission involved for taking of such other corrective actions as may be appropriate. Any order or orders issued as a part of a notice or independently may prescribe the date or dates by which the violation or violations shall cease and may prescribe time schedules for necessary action in preventing, abating or controlling the emissions, and shall be reported to the Board at its next regular meeting.~~))

121.2 Actions taken under this section are subject to the public involvement provisions of NWCAA 305 as applicable. ((~~In lieu of an order the Board may hold a hearing to determine if a violation has occurred or is occurring and if a finding is made that a violation has occurred may issue an order under Section 121.1 of this Regulation.~~))

121.3 The NWCAA shall assess the fee as specified in NWCAA 324.7 to cover the costs of processing and issuing an order under this section. For regulatory orders related to a RACT determination, the fee shall be assessed in accordance with NWCAA 309.7, in lieu of the fees under this section. ((~~In lieu of an order the Board or Control Officer may require that the alleged violator or violators appear before the NWCAA Board pursuant to state law.~~))

121.4 When an applicant requests a regulatory order to limit the potential to emit of any air contaminant or contaminants pursuant to WAC 173-400-091, or requests a modification to such an order, the NWCAA shall issue such order consistent with the requirements of WAC 173-400-091 in addition to the requirements of this Regulation. ((~~Any orders issued by the Board or Control Officer are subject to appeal under Section 122 of this Regulation and RCW 43.21.B.~~))

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, November 8, 2007, November 8, 2012

Reviser's note: The typographical error in the above material occurred in the copy filed by the NWCAA and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

Section 122 - (RESERVED) ((~~APPEALS FROM ORDERS OR FORMAL ENFORCEMENT ACTION~~))

((~~122.1 Any order issued by the Board or Control Officer shall become final unless, no later than thirty (30) days after the date that the order is served, the person aggrieved by the order appeals to the Pollution Control Hearings Board as provided by state law.~~

~~122.2 The final decision and order of the Pollution Control Hearings Board after a hearing shall become final unless no later than thirty (30) days after the issuance of such order, a petition requesting judicial review is filed in Superior Court in accordance with RCW 34.05.~~

~~PASSED: January 8, 1969 AMENDED: July 8, 1970, July 10, 2003, November 8, 2007~~))

AMENDATORY SECTION

Section 123 - ((~~STATUS OF ORDERS ON APPEAL~~)) APPEAL OF ORDERS

123.1 Any order issued by the NWCAA shall become final unless, no later than thirty (30) days after the date that the order is served, any person with standing appeals the order to the Pollution Control Hearings Board as provided by chapter 43.21B RCW. This is the exclusive means of appeal of such an order. ((~~Any order issued by the Board or Control Officer under the NWCAA Regulation Section 121 may be appealed.~~))

123.2 Any order issued by the NWCAA ((~~Board or Control Officer,~~)) under appeal in accordance with chapter ((~~RCW~~)) 43.21B RCW shall remain in effect during the pendency of such appeal unless the ((~~Board or~~)) Control Officer, at his/her ((~~their~~)) discretion, issues a s((~~S~~))tay of the original order. At any time during the pendency of an appeal of such an order to the Pollution Control Hearings Board, the appellant may apply to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW for a stay of the order or for the removal thereof.

((~~123.3 The appellant may also apply to the Pollution Control Hearings Board at any time for a stay of such order per RCW 43.21B.320.~~))

((~~123.4 Such notice of appeal to the Pollution Control Hearings Board must contain the following information:~~

~~(a) The appellant's name and address;~~

~~(b) The date and number of the order or permit that is subject to the appeal;~~

~~(c) Description of the substance of the order or permit that is the subject of the appeal;~~

~~(d) A clear, separate, and concise statement of each error alleged to have been committed;~~

~~(e) A clear, separate and concise statement of facts upon which the appellant relies to sustain the statements of error; and~~

~~(f) A statement setting forth the relief sought.~~))

((~~123.5 The Board or Control Officer may request the attorney for the NWCAA to bring action in Superior Court to obtain any such relief as is necessary to insure compliance with said order, including injunctive relief.~~

~~No bond shall be required from the NWCAA as a condition of granting any restraining order or temporary injunction.~~))

PASSED: January 8, 1969 AMENDED: July 8, 1970, February 14, 1973, November 15, 1988, November 8, 2007, November 8, 2012

Reviser's note: The typographical error in the above material occurred in the copy filed by the NWCAA and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION

SECTION 131 - NOTICE TO VIOLATORS

131.1 At least 30 days prior to the commencement of any formal enforcement action under RCW 70.94.430 or 70.94.431, ~~If the Board or Control Officer has reason to believe that a violation of this Regulation has occurred or is occurring,~~ the ((~~Board, Control Officer, or duly authorized representative~~)) NWCAA shall ((~~may~~)) cause written notice of violation to be served upon the alleged violator. The notice shall specify the provisions of chapter 70.94 RCW or the orders, rules, or regulations adopted pursuant thereto alleged to be violated, and ((~~summarize~~)) the facts alleged to constitute a violation thereof, and may include an order pursuant to NWCAA 121 directing that necessary corrective action be taken within a reasonable time. In lieu of an order, the Control Officer may require that the alleged violator appear before the Board for a hearing pursuant to NWCAA 120. Every notice of violation shall offer to the alleged violator an opportunity to meet with the NWCAA prior to the commencement of enforcement action. ~~Written notice shall be served at least thirty days prior to the commencement of the imposition of a penalty under RCW 70.94.430 and 70.94.431.~~

((~~131.2 The Board, Control Officer, or duly authorized representative upon issuance of notice of violation may do any or all of the following:~~

~~131.21 Require that the alleged violator respond in writing or in person within thirty (30) days of the notice and specify the corrective action being taken.~~

~~131.22 Issue an order pursuant to Section 121 of this Regulation.~~

~~131.23 Initiate action pursuant to Sections 132, 133, 134 and 135 of this Regulation.~~

~~131.24 Hold a hearing pursuant to Section 120 of this Regulation.~~

~~131.25 Require the alleged violator or violators appear before the Board.~~

~~131.26 Avail itself of any other remedy provided by law.~~))

131.2((~~3~~)) The NWCAA, upon issuance of notice of violation, may require the alleged violator to respond in writing or in person within thirty (30) days of the notice and specify the corrective action being taken. Failure to respond ((~~as required in Section 131.21~~)) shall constitute a prima facie violation of this Regulation and the NWCAA ((~~Board or Control Officer~~)) may initiate action pursuant to Sections 132, 133, 134, 135 of this Regulation.

PASSED: January 8, 1969 AMENDED: February 14, 1973, ((~~April 14, 1993,~~)) March 13, 1997, July 14, 2005, November 8, 2007, November 8, 2012

Reviser's note: The typographical errors in the above material occurred in the copy filed by the NWCAA and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

SECTION 309 - REASONABLY AVAILABLE CONTROL TECHNOLOGY

309.1 Reasonably Available Control Technology (RACT) is required for all existing sources except as otherwise provided in RCW 70.94.331(9).

309.2 Where current controls are determined by the NWCAA to be less than RACT, the NWCAA shall define RACT for that source or source category and issue a rule or a regulatory order under NWCAA 121 requiring the installation of RACT.

309.3 RACT for each source category containing three or more sources shall be determined by rule by the Department of Ecology or the NWCAA, except as provided in NWCAA 309.4.

309.4 Source-specific RACT determinations may be performed under any of the following circumstances:

(A) For replacement or substantial alteration of existing control equipment under NWCAA 300.13;

(B) When required by the federal Clean Air Act;

(C) For sources in source categories containing fewer than three sources;

(D) When an air quality problem, for which the source is a contributor, justifies a source-specific RACT determination prior to development of a categorical RACT rule; or

(E) When a source-specific RACT determination is needed to address either specific air quality problems, for which the source is a significant contributor, or source-specific economic concerns.

309.5 The Control Officer shall have the authority to perform a RACT determination; to hire a consultant to perform relevant RACT analyses in whole or in part; or to order the owner or operator to perform RACT analyses and submit the results to the NWCAA.

305.6 In determining RACT, the NWCAA shall utilize the factors set forth in the RACT definition in NWCAA 200 and shall consider RACT determinations and guidance made by the EPA, other states, and local authorities for similar sources, and other relevant factors. In establishing or revising RACT requirements, the NWCAA shall address, where practicable, all air contaminants deemed to be of concern for that source or source category.

309.7 The NWCAA shall assess a fee to be paid by any source included in a RACT determination to cover the direct and indirect costs of developing, establishing, or reviewing categorical or source-specific RACT determinations. The fee for RACT determinations shall be as established in NWCAA 324.6.

309.8 Emission standards and other requirements contained in rules or regulatory orders in effect at the time of operating permit issuance shall be considered RACT for purposes of permit issuance or renewal.

309.9 Replacement or substantial alteration of control equipment under Section 300.13 shall be subject to the notice of construction review fees under NWCAA 324.2, in lieu of RACT fees under this section.

PASSED: November 8, 2012

AMENDATORY SECTION

SECTION 324 - FEES

324.1 Annual Registration Fees

(A) The NWCAA shall levy annual registration program fees as set forth in Section 324.1(C) to cover the costs of administering the registration program.

(B) Upon assessment by the NWCAA, registration fees are due and payable. A source shall be assessed a late penalty in the amount of twenty-five percent (25%) of the registration fee for failure to pay the registration fee within thirty (30) days after the due date. The late penalty shall be in addition to the registration fee.

(C) All registered air pollution sources shall pay the appropriate registration fee(s) as set forth in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA. A proposed resolution that changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of the proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA, however no person is required to request such notice. Each notice of a proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

324.2 New Source Review Fees

(A) New source fees shall be submitted with each Notice of Construction (NOC) application or request for a NOC applicability determination.

(B) The applicable fee(s) shall be established in the current fee schedule adopted by Resolution by the Board of Directors of the NWCAA. A proposed resolution that changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of the proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA, however no person is required to request such notice. Each notice of a proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

324.3 Variance Fee. The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.4 Issuance of Emission Reduction Credits. The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA.

324.5 Plan and examination, filing, SEPA review, and emission reduction credit fees may be reduced at the discretion of the Control Officer by up to 75 percent for existing stationary sources implementing pollution prevention or undertaking voluntary and enforceable emission reduction projects.

324.6 RACT Fee. The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA. Fees shall be due and payable upon receipt of invoice and shall be deemed delinquent if not fully paid within 30 days of invoice. A proposed resolution that adopts or changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of the proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA; however, no person is required to request such notice. Each notice of a proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final

decision on a proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

324.7 Order Fee. The applicable fee(s) shall be established in the current fee schedule adopted by Resolution of the Board of Directors of the NWCAA. A proposed resolution that adopts or changes any fee schedules described in this section shall be posted on the NWCAA website for not less than 30 days prior to the Board of Directors meeting at which the Board takes action on the resolution. In addition, an electronic version of the proposed fee schedule changes shall be provided by e-mail to any person requesting notice of proposed fee schedule changes, not less than 30 days prior to the Board meeting at which such changes are considered. It shall be the ongoing responsibility of a person requesting electronic notice of proposed fee schedule amendments to provide their current e-mail address to the NWCAA; however, no person is required to request such notice. Each notice of a proposed fee schedule change shall provide for a comment period on the proposal of not less than 30 days. Any such proposal shall be subject to public comment at the Board meeting where such changes are considered. No final decision on a proposed fee schedule change shall be taken until the public comment period has ended and any comments received during the public comment period have been considered.

PASSED: November 12, 1998 AMENDED: November 12, 1999, June 14, 2001, July 10, 2003, July 14, 2005, November 8, 2007, August 9, 2012, November 8, 2012

AMENDATORY SECTION

SECTION 350 - VARIANCES

350.1 Any person who owns or is in control of any plant, building, structure, establishment, process or equipment including a group of persons who own or control like processes or like equipment may apply to the board for a variance from the rules or Regulation governing the quality, nature, duration or extent of discharge of air contaminants. The application shall be accompanied by such information and data as the Board may require. The Board may grant such variance, but only after public hearing or due notice, if it finds that:

((~~350.11~~)) (A) The emissions occurring or proposed to occur do not endanger public health or safety; and

((~~350.12~~)) (B) Compliance with the rules or Regulation from which variance is sought would produce serious hardship without equal or greater benefits to the public.

350.2 No variance shall be granted pursuant to this Section until the Board has considered the relative interests of the applicant, other owners or property likely to be affected by the discharge, and the general public.

350.3 Any variance or renewal thereof shall be granted within the requirements of Section 350.1 and for time periods and under conditions consistent with reasons therefore, and with the following limitations:

((~~350.31~~)) (A) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement, or control of the pollution involved, it shall be only until the necessary means for prevention, abatement, or control becomes known and available, and subject to the taking of any substitute or alternate measure that the Board may prescribe.

((~~350.32~~)) (B) If the variance is granted on the ground that compliance with the particulate requirements or requirement from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time, as in view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

((~~350.33~~)) (C) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided in subsection ((~~350.31~~)) 350.3(A) and ((~~350.32~~)) 350.3(B), it shall be for not more than one year.

350.4 Any variance granted pursuant to this Section may be renewed on terms and conditions and for periods which would be appropriate under all circumstances including the criteria considered on the initial granting of a variance and that acquired during the existence of the variance. If a complaint is made to the board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the board finds that renewal is justified. No renewal shall be granted except on application thereof. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of an application for renewal, the Board shall give public notice of such application in accordance with the rules and Regulation of the Board.

350.5 A variance or renewal shall not be a right of the applicant or holder thereof but shall be at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board, may obtain judicial review thereof under the provisions of Section ((~~121~~)) 123 or Chapter 43.21B RCW as now or hereafter amended.

350.6 Nothing in this Section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of RCW 70.94.715 to any person or his property.

PASSED: January 8, 1969 AMENDED: October 1, 1969, February 14, 1973, January 9, 1974, ((~~April 14, 1993,~~)) September 8, 1993, November 8, 2012

WSR 12-20-061
PROPOSED RULES
HORSE RACING COMMISSION

[Filed October 2, 2012, 1:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-15-055.

Title of Rule and Other Identifying Information: Title 260 WAC.

Hearing Location(s): Auburn City Council Chambers, 25 West Main, Auburn, WA 98002, on November 9, 2012, at 9:30 a.m.

Date of Intended Adoption: November 9, 2012.

Submit Written Comments to: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, e-mail doug.moore@whrc.state.wa.us, fax (360) 459-6461, by November 5, 2012.

Assistance for Persons with Disabilities: Contact Patty Sorby by November 5, 2012, TTY (360) 459-6462.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amends how labor and industries premiums are calculated at both the race track and at the farms and training centers. Also addresses responsibilities of stakeholders to report number of employees and horses in training and penalties resulting from violations.

Reasons Supporting Proposal: The industry has struggled how to implement labor and industries premiums in a fair and equitable manner while attempting to attract out of state trainers to compete during the live racing season. The amendments would calculate labor and industries on a pay as you go system charging by a per stall per day rate.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Proponent: [Horse racing commission], governmental.

Name of Agency Personnel Responsible for Drafting: Douglas L. Moore, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462; Implementation and Enforcement: Robert J. Lopez, 6326 Martin Way, Suite 209, Olympia, WA 98516-5578, (360) 459-6462.

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.

October 2, 2012
Douglas L. Moore
Deputy Secretary

AMENDATORY SECTION (Amending WSR 07-11-115, filed 5/18/07, effective 6/18/07)

WAC 260-20-090 Association security. (1) A racing association conducting a race meet must maintain security controls over its grounds.

(2) An association will prevent access to, and will remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.

(3) Class A or B racing associations must provide continuous security in the stable area during all times that horses are stabled on the grounds. An association will require any person entering the stable area to display a valid license or credential issued by the commission or a pass issued by the association.

(4) Class A or B racing associations must keep a written record, on a form approved by the commission, of all horses admitted to or leaving the stable areas. For horses admitted to the stable areas the log must contain the date, time, names of horses, and barn or name of trainer they are being delivered to. For horses leaving the stable areas the log must contain the date, time, name of horses, and barn or name of trainer they are leaving from. A copy of the completed form(s) must be provided to the commission on a weekly basis. The original log is subject to inspection at any time by the commission.

(5) All persons and businesses transporting horses on and off the grounds of a racing association are responsible to provide association security, and if applicable, the commission with the names of any horses delivered to or leaving the grounds and the trainer responsible.

(6) Class A or B racing associations must provide fencing around the stable area in a manner that is approved by the commission.

(((~~(5)~~))) (7) Not later than twenty-four hours after an incident occurs requiring the attention of security personnel, the chief of security must deliver to commission security a written report describing the incident, which may be forwarded to the stewards for disciplinary action. The report must include the name of each individual involved in the incident and the circumstances of the incident.

AMENDATORY SECTION (Amending WSR 07-01-052, filed 12/14/06, effective 1/14/07)

WAC 260-36-062 Fitness to participate. (1) All applicants for a jockey, apprentice jockey, exercise rider, pony rider or outrider license must certify on their application that they are physically fit to ride.

(2) During the conduct of a race meet, if the board of stewards finds that a threat to the public health, safety or welfare requires emergency action, the board of stewards may require a jockey, apprentice jockey, exercise rider, pony rider or outrider to provide a physician's written statement verifying fitness to ride before being allowed to ride in a race or on the grounds of the racing association.

(3) All applicants for a groom, assistant trainer, or other employees of the trainer not on horseback, must certify on their application that they are physically fit to perform the duties of the position they hold.

(4) If, during the year of license, a groom, assistant trainer, or other employee of the trainer becomes injured, they will report the injury to the trainer, who must in turn report the injury to the board of stewards or executive secretary. If the injury adversely impacts an employee's ability to perform their duties, the board of stewards or executive secretary may require the employee provide a physician's written statement verifying fitness to perform their duties before the employee will be allowed to return to work on or off the grounds of the racing association.

AMENDATORY SECTION (Amending WSR 07-01-052, filed 12/14/06, effective 1/14/07)

WAC 260-36-080 Duration of a license. (1) Every license issued by the commission will be for a term not

exceeding one year. Licenses expire on December 31st of each year except as otherwise provided in this rule.

(2) Licenses issued to employees and volunteers of a racing association will be for a term of one year and expire on the last day of February of each year.

(3) A license will be considered expired as of the end of the month in which the final live race day of the year is run, unless extended as provided in subsection (4) of this section, the date a licensee is no longer performing the activities for which he or she was licensed, or, if applicable, the date the licensee is no longer employed by the employer who hired the licensee. The commission or its designee may, at its sole discretion, reinstate such a license if the licensee is reemployed or begins performing the activities for which he or she was licensed prior to the end of the license period for which the license had been originally issued.

(4) All licenses issued to exercise riders - track, and pony riders - track will expire on the last live race day of the year. All licenses issued to trainers, assistant trainers, grooms, exercise riders - farm, and pony riders -farm, will expire at the end of the month in which the final live race day of the year the track is run, unless extended as provided in subsection (5) of this section.

(5) The license of trainers, assistant trainers, grooms, exercise riders - farm, and pony riders - farm may be extended if the trainer chooses to extend industrial insurance coverage as provided in WAC 260-360-250 (4)(a). In those cases, the license of the trainer and the trainer's employees will not expire as provided in subsection (4) of this section until industrial insurance coverage is no longer obtained or until December 31st, whichever comes first.

AMENDATORY SECTION (Amending WSR 10-21-055, filed 10/14/10, effective 11/14/10)

WAC 260-36-085 License and fingerprint fees. (1) The following are the license fees for any person actively participating in racing activities:

Apprentice jockey	$83.00
Assistant trainer	$40.00
Association employee((—)) - Management	$27.00
Association employee((—)) - Hourly/seasonal	$17.00
Association volunteer nonpaid	No fee
Authorized agent	$27.00
Clocker	$27.00
Exercise rider - Farm	$83.00
Exercise rider - Track	$83.00
Groom	$27.00
Honorary licensee	$17.00
Jockey agent	$83.00
Jockey	$83.00
Other	$27.00
Owner	$83.00
Pony rider - Farm	$83.00
Pony rider - Track	$83.00
Service employee	$27.00
Spouse groom	$27.00
Stable license	$51.00
Trainer	$83.00
Vendor	$127.00
Veterinarian	$127.00

(2) Exercise and pony riders.

(a) A person receiving an exercise rider - track license must first obtain an exercise rider - farm license if that person works off the grounds of a Washington race track. A person receiving a second exercise rider's license will not be charged an additional license fee for that second license.

(b) A person receiving a pony rider - track license must first obtain a pony rider - farm license if that person works off the grounds of a Washington race track. A person receiving a second pony rider's license will not be charged an additional license fee for that second license.

(3) In other cases, the license fee for multiple licenses may not exceed $127.00, except persons applying for owner, veterinarian or vendor license must pay the license fee established for each of these licenses.

The following are examples of how this section applies:

Example one - A person applies for the following licenses: Trainer ($83.00), exercise rider ($83.00), and pony rider ($83.00). The total license fee for these multiple licenses would only be $127.00.

Example two - A person applies for the following licenses: Owner ($83.00), trainer ($83.00) and exercise rider ($83.00). The total cost of the trainer and exercise rider license would be $127.00. The cost of the owner license ($83.00) would be added to the maximum cost of multiple licenses ($127.00) for a total license fee of $210.00.

Example three - A person applies for the following licenses: Owner ($83.00), vendor ($127.00), and exercise rider ($83.00). The license fees for owner ($83.00) and vendor ($127.00) are both added to the license fee for exercise rider ($83.00) for a total license fee of $293.00.

In addition to the above fees, except for association volunteers (nonpaid) at Class C race meets, a $10.00 fee will be added to cover the costs of conducting a fingerprint-based background check. The background check fee will be assessed only once annually per person regardless of whether the person applies for more than one type of license in that year.

The commission will review license and fingerprint fees annually to determine if they need to be adjusted to comply with RCW 67.16.020.

AMENDATORY SECTION (Amending WSR 12-03-077, filed 1/13/12, effective 2/13/12)

WAC 260-36-120 Denial, suspension, and revocation—Grounds. (1) The commission, executive secretary, or board of stewards may refuse to issue or may deny a license to an applicant, may modify or place conditions upon a license, may suspend or revoke a license issued, may order disciplinary measures, or may ban a person from all facilities

under the commission's jurisdiction, if the applicant licensee, or other person:

(a) Has been convicted of any felony or gross misdemeanor crime;

(b) Is subject of current prosecution of any felony crime;

(c) Has any felony conviction under appeal;

(d) Has pending criminal charges;

(e) Has failed to meet the minimum qualifications required for the license for which they are applying;

(f) Has failed to disclose or states falsely any information required in the application;

(g) Has been found in violation of statutes or rules governing racing in this state or other jurisdictions;

(h) Has a proceeding pending to determine whether the applicant or licensee has violated the rules of racing in this state or other racing jurisdiction;

(i) Has been or is currently excluded from a racetrack at which parimutuel wagering on horse racing is conducted by a recognized racing jurisdiction;

(j) Has had a license denied by any racing jurisdiction;

(k) Is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or who may interfere or has interfered with the orderly conduct of a race meeting;

(l) Demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;

(m) Has violated any of the alcohol or substance abuse provisions outlined in chapter 260-34 WAC;

(n) Has violated any of the provisions of chapter 67.16 RCW;

(o) Has violated any provisions of Title 260 WAC;

(p) Has association with persons of known disreputable character; ((~~or~~))

(q) Has not established the necessary skills or expertise to be qualified for a license as required by WAC 260-36-060; or

(r) Has committed any act with the outcome or intent of defrauding the industrial insurance benefits provided under the horse industry account.

(2) The commission, executive secretary or board of stewards must deny the application for license or suspend or revoke an existing license if the applicant or licensee:

(a) Is certified under RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order;

(b) Has any outstanding arrest warrants; or

(c) Is currently suspended or revoked in Washington or by another recognized racing jurisdiction.

(3) A license suspension or revocation will be reported in writing to the applicant or licensee and electronically to the Association of Racing Commissioners International, Inc.

AMENDATORY SECTION (Amending WSR 12-05-042, filed 2/10/12, effective 3/12/12)

WAC 260-36-250 Industrial insurance. (1) At the time of submitting a license application, or as provided in this section, all ((~~trainers must pay the industrial insurance premium assessment required by RCW 67.16.300 and 51.16.210 for each person in their employment. The industrial insurance premiums will be based on the type of race meet the trainer is licensed to participate at and the type of license the employee is licensed as. All the trainer's employees must be properly licensed by the commission before being allowed to work. If a trainer releases an employee from employment, the trainer must notify the stewards within forty-eight hours.~~

~~(2) Class A, B, and C race meet.~~

~~(a) Trainers who are licensed at a Class A or B race meet must pay the industrial insurance premiums established by the department of labor and industries for parimutuel horse racing at major tracks.~~

~~(b) Trainers who are licensed at a Class C race meet will pay the industrial insurance premiums established by the department of labor and industries for parimutuel horse racing for nonprofit tracks.~~

~~(c) The trainer's base premium, covers all licensed pony riders employed by the trainer, and excludes assistant trainers, grooms and exercise riders.~~

~~(d) If a trainer who is licensed at a Class A or B race meet wishes to run a horse(s) at a Class C race meet during the same calendar year, the trainer from the Class A or B race meet is not required to pay any additional industrial insurance premiums to participate at a Class C race meet unless the trainer adds a groom slot or an assistant trainer, or starts different horses or adds more horses in training than they had at the Class A or B race meet. Should a trainer increase the number of employees or different horses started or in training, the trainer must pay the additional industrial insurance premiums for the Class C race meet.~~

~~(e) If a trainer who is licensed at a Class C race meet wishes to run a horse(s) at a Class A or B race meet during the same calendar year, the trainer from the Class C race meet must first pay the difference in industrial insurance premiums between what he/she has paid at the Class C race meet and the industrial insurance premiums due at the Class A or B race meet.~~

~~A trainer with a Class C license is ineligible to obtain Class A or B short duration coverage.~~

~~(3) Grooms and assistant trainers.~~

~~(a) At the time of licensing, or as provided in this section, a trainer must pay the annual industrial insurance premiums for grooms and assistant trainers established by labor and industries, unless exempted under reciprocal agreement outlined in subsection (7) of this section. Coverage will only apply to licensed grooms and assistant trainers working for the trainer, and excludes pony riders, and exercise riders employed by the trainer. In addition, a spouse groom is exempt from coverage requirements. A trainer is responsible for accurately reporting all grooms and assistant trainers in the trainer's employ. If a trainer releases any employee from employment, the trainer must notify the stewards within forty-eight hours. It is the trainer's responsibility to ensure all grooms and assistant trainers in their employ are properly licensed by the commission. (See also WAC 260-36-060 (1)(a).)~~

~~(b) A trainer must purchase a separate groom premium for the maximum number of grooms and/or assistant trainers hired at any one time. Prior to hiring a groom or assistant trainer, the trainer must ensure that a vacant groom/assistant~~

~~trainer slot is available prior to allowing the groom or assistant trainer to work.~~

~~(4) Horse premiums - Exercise riders.~~

~~(a) At the time of licensing, or as provided in this section, a trainer must pay the annual industrial insurance premiums for all horses in training which covers exercise riders established by labor and industries unless exempted under reciprocal agreement outlined in subsection (7) of this section. Coverage will only apply to licensed exercise riders exercising horses for a licensed trainer and for trainers, also licensed as exercise riders, exercising any of the horses in their care and excludes grooms, assistant trainers and pony riders. All trainers at a Class A or B track are required to pay an industrial insurance premium for at least one horse. It is the trainer's responsibility to ensure all exercise riders in their employ are properly licensed by the commission.~~

~~(b) A trainer at a Class A or B track must pay all required annual industrial insurance premiums equal to the maximum number of horses in training on any given day, which covers exercise riders, during the calendar year that the trainer has both on and off the grounds of a racing association. A trainer is responsible for accurately reporting all horses as they enter and leave the grounds of a racing association and all horses in training off the grounds.~~

~~(c) For horses on the grounds of a Class A or B track, a trainer must count each horse under the trainer's care. Premiums will be calculated on the maximum number of horses in the trainer's care on any one day, even if the horse is stalled on the grounds for a day or less. (For example, if a trainer comes to Washington to enter or nominate his/her horse in one race and the horse is only on the grounds for one day, the trainer is required to pay the full industrial insurance premium for that one horse, except for short duration coverage as provided in subsection (4) of this section.) Pony horses will not be counted.~~

~~(i) For horses off the grounds, a trainer must count all horses in training that are subject to being ridden by licensed exercise riders, if the exercise riders are to be covered by the Washington labor and industries insurance under the horse industry account.~~

~~(ii) If any trainer increases the number of horses in training or racing, either on or off the grounds during the calendar year, the trainer is responsible to pay the additional premiums as provided in this section.~~

~~(iii) If any trainer decreases the number of horses in training or racing, either on or off the grounds during the calendar year, the trainer is not entitled to any refund as premiums are annual fees that are not prorated and are assessed on the maximum number of horses in training on any day during the calendar year.~~

~~(iv) It is the trainer's responsibility to maintain records and accurately report the number of horses in training (both on and off the grounds) for purposes of paying industrial insurance premiums required by this section. If at any time during the calendar year a trainer increases the number of horses in training or racing beyond the premium previously assessed, the trainer is responsible for immediately reporting and paying the additional premium owed.~~

~~(d) A trainer at a Class C track must pay industrial insurance premiums which covers exercise riders equal to the maximum number of different horses the trainer starts at the Class C tracks during the calendar year, or the maximum number of horses the trainer has in training, whichever is greater. All trainers at a Class C track are required to pay industrial insurance for at least one horse.~~

~~(i) If during the calendar year a horse is started by more than one trainer, that horse, for the purpose of calculating the annual industrial insurance premium a trainer is required to pay, will count as a different horse for each trainer.~~

~~(ii) It is the trainer's responsibility to maintain records and accurately report the number of different horses started or in training for the purpose of paying industrial insurance premiums required in this section. If at any time during the calendar year a trainer increases the number of different horses started or the total number of horses in training beyond the premium previously assessed, the trainer is responsible for immediately reporting and paying the additional premium owed.~~

~~(5) Short duration coverage.~~

~~(a) Trainers entering horses to run in Washington races will be allowed to obtain short duration industrial insurance coverage that will reduce the amount of industrial insurance premium a trainer has to pay to provide employees financial relief from injury. Short duration coverage may be purchased no sooner than seven days prior to the start of the live race meet where the trainer plans to run. The following conditions will apply for short duration coverage:~~

~~(i) Trainers who ship in to Class A or B race meets may purchase short duration industrial insurance coverage for thirty consecutive calendar days. Trainers who have purchased any annual coverage at Class A or B race meets including paying installment premiums are not eligible for short duration coverage. Thirty-day short duration coverage can be purchased for each trainer's base coverage. Separate thirty-day short duration coverage can be purchased for each groom, and/or assistant trainer and separate coverage can be purchased for each horse on the grounds, which cover the exercise rider. The premium for thirty day coverage will be set by the department of labor and industries (rounded to the next whole dollar). A trainer may only purchase Class A or B race meet short duration coverage for three thirty-day periods per calendar year. If a trainer extends coverage for more than three thirty-day periods, the trainer will owe the annual premium for each groom and assistant trainer, and the annual premium for exercise rides (based on all horses on the grounds during the previous ninety-day coverage period). The premium owed for coverage extending past ninety days will be the annual premium, less what the trainer may have already purchased for each risk class.~~

~~(ii) Trainers who ship in to Class C race meets may purchase short duration industrial insurance coverage for seven consecutive calendar days. Seven-day short duration coverage can be purchased for each trainer's base premium. Separate seven-day short duration coverage can be purchased for each groom and assistant trainer. The premium for seven-day short duration coverage will be set by the department of labor and industries (rounded to the next whole dollar). A trainer may only purchase Class C race meet short duration coverage for three seven-day periods per calendar year. Class C race~~

~~meet short duration industrial insurance coverage is not transferable to a Class A or B race meet.~~

~~(b) When applying for short duration coverage, a trainer must obtain a license and pay all applicable license and fingerprint fees required in WAC 260-36-085. The trainer is also required to ensure that each groom, assistant trainer, pony rider, and exercise rider hired by the trainer has a proper license. A trainer may only employ persons on the grounds of the racing association who are properly licensed by the commission. Prior to the end of each short duration coverage period a trainer must pay the short duration premium for any additional grooms, or assistant trainers (slots) and any additional horses brought on the grounds of a Class A or B race meet, or any additional horses started in a race at Class C race meets.~~

~~(c) Short duration coverage is only valid for the thirty-day period for Class A and B race meets or the seven-day period for Class C race meets and only covers workers while in the state of Washington.~~

~~(6) Installment program.~~

~~(a) As provided in subsections (1) through (4) of this section a trainer, at the time of licensing must pay the annual industrial insurance premiums for all employees, including assistant trainers and grooms, as well as premiums for horses in training to cover the exercise riders, and pony riders. However, a trainer may pay the annual industrial insurance premiums in installments as long as the horsemen's representative, through an agreement with the commission, agrees to assume financial responsibility and pay to the commission any delinquent industrial insurance premiums owed by trainers at the end of the racing season.~~

~~(b) A trainer who chooses to pay industrial insurance premiums in installments is obligated to make all installment payments of the annual industrial insurance premiums on the dates set annually by the executive secretary.~~

~~(i) The number of installment payments and percentages of each payment will be determined by the horsemen's representative and the executive secretary.~~

~~(ii) After the initial installment premium payment, if the trainer adds additional groom slots, assistant trainer slots, or owes additional horse premiums to cover exercise riders, the trainer must make a payment equal to all previous installments owed.~~

~~(c) Once a trainer makes an initial payment of industrial insurance, the trainer is responsible for the full annual premium. The total amount of premium owed will be considered undisputed under WAC 260-28-030, and failure to make any or all of the additional premium payments will be considered a violation. The board of stewards or executive secretary will have the authority to take action to collect the unpaid premium, including issuing a fine and suspending the trainer's license until the premium and fines are paid as provided in WAC 260-84-135.~~

~~(7) Reciprocal agreements. The state of Washington has reciprocal agreements with other states. Trainers shipping in from these jurisdictions who have industrial insurance from a reciprocal state need not obtain industrial insurance coverage so long as they comply with the conditions of RCW 51.12.120 and WAC 296-17-31009.~~)) licensed trainers must provide the commission with the name of all licensed employees, including grooms, assistant trainers, exercise riders - farm, and pony riders - farm. Trainers will be required to maintain accurate payroll records and may be required to submit them to the commission or the department of labor and industries for premium verification and/or claims processing. In addition the trainer will inform the commission of the worksite for each employee. For the purpose of industrial insurance coverage a worksite may only be one of the following locations:

(a) A Washington race track - A race track in the state of Washington granted race dates by the commission. A site will be designated as a Washington race track for the purposes of industrial insurance for only the period of the track's licensed race meet and periods of training when horses are exercised in preparation for competition. This period of time is limited to only that period of time when the stewards have authority on the grounds (WAC 260-24-510(2));

(b) Farm or training center - A farm or training center is any location off the grounds of a licensed race meet. This will include any recognized race track located outside the state of Washington as well as any Washington race track during the period before its period of training or after its licensed race meet. For the purposes of industrial insurance all such locations will be considered a farm or training center.

(2) Grooms and assistant trainers.

(a) A licensed trainer must pay the industrial insurance premiums for all licensed grooms and licensed assistant trainers as established by labor and industries, unless exempted under reciprocal agreement outlined in subsection (5) of this section. Coverage will only apply to licensed grooms and licensed assistant trainers working for the trainer, and excludes all exercise riders, pony riders, and any other licensed employee of the trainer, whether working at a farm or training center. In addition, licensed spouse grooms are exempt from coverage requirements.

(b) A trainer is responsible for accurately reporting to the commission all grooms and assistant trainers in the trainer's employ. If a trainer releases any employee from employment, the trainer must notify the commission within forty-eight hours. Failure to notify the commission within forty-eight hours may result in the trainer being responsible for the full industrial insurance premium until notification is made. It is the trainer's responsibility to ensure all grooms and assistant trainers in their employ are properly licensed by the commission.

(c) The industrial insurance premiums will be assessed based on each groom or assistant trainer employed in the coverage month, or on a per day basis. The daily rate is ten percent of the monthly rate. Premiums will be paid to the commission on a monthly basis. A trainer must pay the assessed industrial insurance premium for each licensed groom and licensed assistant trainer at the end of each month, or before the trainer leaves the grounds taking his/her horses. Multiple trainers may employ the same groom, but each trainer is responsible for the entire applicable labor and industries premium. Payment of the full premium is normally due prior to the fifteenth of the following month. Failure to make the payment by the fifteenth will result in a fine and, if applicable, a suspension as outlined in WAC 260-84-135.

(3) Track employees.

(a) A trainer must pay the industrial insurance premiums for all track employees employed by the training to work on the grounds of a race track unless exempted under reciprocal agreement outlined in subsection (5) of this section. Coverage will only apply to track employees, which will include licensed exercise riders - track, and licensed pony riders - track, and excludes all grooms, spouse grooms, assistant trainers, and all farm employees working off the grounds of a Washington race track at a farm or training center.

(b) It is the trainer's responsibility to ensure all track employees in their employ are properly licensed by the commission.

(c) The industrial insurance premiums to cover track employees will be assessed on the number of horses, per day, in a month a license trainer has horses on the grounds. The number of horses will include all horses on the grounds under the care of a licensed trainer, including pony horses. Premiums will be paid to the commission on a monthly basis. A trainer must pay the assessed industrial insurance premium for each horse per day at the end of each month, or before the trainer leaves the grounds taking his/her horses.

(i) A trainer is responsible to accurately report the correct number and identity of any horse or horses in their care.

(ii) A trainer is responsible to report any transfer of a horse in their care to another trainer at the commission office. Failure to report transfers will result in the trainer being assessed the industrial insurance premium for unreported transfers until the commission receives the required notice.

(4) Farm employees.

(a) A licensed trainer must pay the industrial insurance premiums for all licensed farm employees employed by the trainer to work at a farm or training center unless exempted under reciprocal agreement outlined in subsection (5) of this section. Coverage will only apply to licensed farm employees which will include licensed exercise riders - farm, and licensed pony riders - farm, and excludes grooms, spouse grooms, assistant trainers, and all track employees working on the grounds of a Washington race track.

(b) A trainer is responsible for accurately reporting all farm employees in the trainer's employ. A trainer must notify the commission prior to any employee beginning work. If a trainer releases any farm employee from employment, the trainer must notify the stewards within forty-eight hours. Failure to notify the commission within forty-eight hours may result in the trainer being responsible for the full industrial insurance premium until notification is made. It is the trainer's responsibility to ensure all farm employees in their employ are properly licensed by the commission.

(c) The industrial insurance premiums to cover farm employees will be assessed on the number of employees, per day, multiplied by the number of days in the month the trainer reports the employee working. Trainers must report the anticipated work days and hours of work each day at the start of the month. If the work schedule changes the trainer must immediately notify the commission.

(d) A farm employee may be required to produce to the commission payroll records for verification of work days and/or claims processing.

(5) Reciprocal agreements. The state of Washington has reciprocal agreements with other states. Trainers shipping in from these jurisdictions who have industrial insurance from a reciprocal state need not obtain industrial insurance coverage so long as they comply with the conditions of RCW 51.12.120 and WAC 296-17-31009.

(6) Employees moving from one worksite to another.

(a) A licensed groom or licensed assistant trainer can move from the track to the farm or from the farm to the track. The trainer is not required to notify the commission whenever a licensed groom or licensed assistant trainer moves from the different worksites.

(b) A licensed exercise rider - track or licensed pony rider - track may not move from the track to the farm unless that person first obtains an exercise rider - farm or pony rider - farm license. On those days a track employee moves from the track to the farm, the trainer will be responsible, at the end of the month, to pay an additional farm premium for each employee, for each day they worked at the farm as provided in subsection (4) of this section.

(c) A licensed exercise rider - farm or licensed pony rider - farm can move from the farm to the track. Before moving any such employees, the employee must first also be licensed as an exercise rider - track or pony rider - track. On those days a farm exercise rider or pony rider moves to the track, the trainer will not be responsible to pay any additional premium, as long as the employee continues to have the farm premium assessed.

(d) A track employee is only covered under the per horse, per day premium, and then only while on the grounds of a Washington race track during its licensed race meet and periods of training. Any time prior to or after the stewards have authority on the grounds granted in WAC 260-24-510(2), the Washington track will be considered, for the purposes of industrial insurance coverage a farm or training center.

(7) Major track versus nonprofit race track.

(a) There will no longer be a distinction, for industrial insurance purposes, except as provided in (b) of this subsection, between a major (Class A or B) race track and a nonprofit (Class C) race track. Premiums to cover licensed employees will be assessed the same.

(b) License owners at a major race track will be assessed a premium of one hundred fifty dollars per year for one hundred percent ownership of one or more horses. Owners, with partial ownership interest shall be assessed a prorated amount of the full ownership fee in increments of ten percent. Owners at a nonprofit or Class C race track will continue to pay a lesser premium as established annually by the department of labor and industries.

(c) Premiums paid by owners are a fee to subsidize workers compensation coverage for injured workers. The premiums paid by owners do not extend any coverage to owners.

(8) Coverage outside the state of Washington.

(a) Trainers with employees from Washington may continue coverage when they are at another recognized race track in another state if that other jurisdiction has a reciprocal agreement with the state of Washington, and if:

(i) The trainer pays the premium for grooms and assistant trainers, and as long as both the trainer and grooms/assistant trainers are licensed by the commission; and

(ii) The trainer pays the premium at the farm rate for exercise riders - farm and pony riders - farm, and as long as both the trainer and all farm employees are licensed by the commission.

(b) Trainers must continue to report Washington employees to the commission prior to the start of each month so an assessment can be made. Failure to report may result in the trainer being referred to the stewards or executive secretary for further action.

(c) Track employees hired in another state or jurisdiction are not Washington employees. They are to be covered in the state or jurisdiction they were hired in. It is the trainer's responsibility to obtain coverage in the other state or jurisdiction.

(9) Trainers will be provided an invoice monthly of premiums due. Total monthly premiums will be rounded to the next whole dollar.

NEW SECTION

WAC 260-36-260 Employees and duties. (1) Employees of licensed trainers are grooms, assistant trainers, exercise riders (both at the track and at the farm), and pony riders (both at the track and at the farm). Employees of a trainer may only perform those duties for which they are licensed and as outlined in this section. For the purposes of industrial insurance coverage under the horse industry account, coverage will only extend while an employee is properly licensed by the commission, employed by a licensed trainer, and only performing duties associated with the employee's license.

(2) Exercise riders, both at the track and farm may only perform the following duties:

(a) Exercise horses, which includes riding, lunge and line drive horses;

(b) Assist with saddling horses for training;

(c) Unsaddle horses following training;

(d) Clean tack following training;

(e) An exercise rider may not perform any of the duties of a groom, assistant trainer, pony rider, or other duties not usually preparing horses for competition.

(3) Pony riders may only perform the following duties:

(a) Escort horses to the track during training;

(b) Escort horses to the receiving barn and to the stable following a race;

(c) Escort horses to the starting gate in the post parade during racing (pony rider - track only);

(d) Clean stalls, rake and clean stable area associated with their ponies;

(e) A pony rider may not perform any duties of a groom, assistant trainer, exercise rider, or other duties not normally associated with escorting horses.

(4) Grooms may perform the following duties:

(a) Clean stalls, rake and clean stable area;

(b) Bathe, groom, feed, and water horses;

(c) Lead horses to and from hot walkers or to the track and/or receiving barn and paddock;

(d) Apply bandages, salves, topical medications, etc.;

(e) Tack horses for training;

(f) Handle horses in the paddock and test barn; and

(g) A groom may not mount or ride a horse.

(5) Assistant trainers may perform the duties of a groom and additionally may represent the trainer in other matters such as entering and scratching horses. An assistant trainer also may not mount or ride a horse.

AMENDATORY SECTION (Amending WSR 12-05-042, filed 2/10/12, effective 3/12/12)

WAC 260-84-135 Penalties relating to industrial insurance. For ((~~licensees~~)) trainers, whether at a race track or farm or training center, who fail to report correct industrial insurance requirements (number of persons in their employ and the number of horses in their care), the following penalties will be assessed:

(1) Failure to report correct number of horses ((~~in training~~)) on the grounds will result in a fine of ((~~fifty percent of the premium owed~~)) one hundred dollars for each horse and full payment of premium.

(2) Failure to report proper identification of horses entering or leaving the stable area will result in a fine of fifty dollars.

(3) Failure to report the correct number of employees (grooms ((~~and~~)), assistant trainers, exercise riders - farm, and pony riders - farm) will result in a fine of ((~~fifty percent of the premium owed~~)) one hundred dollars per month, per employee and full payment of premium.

(4) Failure to pay industrial insurance premium payment required under WAC 260-36-250 will result in a fine of one hundred dollars if payment is not received on or prior to the dates required. If the payment is not received within two days of the due date, the trainer's license will be suspended until the premium and fine are received by the commission. If a trainer leaves the grounds of a race track, taking his/her horses and fails to pay all premiums due, the trainer may be summarily suspended until the premium and the fine are received by the commission.

(5) Trainers who fail to comply with the industrial insurance requirements of WAC 260-36-250 may also have conditions placed on their license, including the inability to license farm employees, or being limited to conducting their business only on the grounds of a Washington race track during its licensed race meet and periods of training.

WSR 12-20-062
PROPOSED RULES
GAMBLING COMMISSION
[Filed October 2, 2012, 1:50 p.m.]

Continuance of WSR 12-09-045.

Preproposal statement of inquiry was filed as WSR 12-05-065.

Title of Rule and Other Identifying Information: WAC 230-15-040 Requirements for authorized card games and 230-15-685 Restrictions on progressive jackpots.

Hearing Location(s): Comfort Inn Conference Center, 1620 74th Avenue S.W., Tumwater, WA 98501, on Novem-

ber 15 or 16, 2012, at 9:00 a.m. or 1:00 p.m. NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: November 15 or 16, 2012. NOTE: Meeting dates and times are tentative. Visit our web site at www.wsgc.wa.gov and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Submit Written Comments to: Susan Arland, P.O. Box 42400, Olympia, WA 98504-2400, e-mail SusanA@wsgc.wa.gov, fax (360) 486-3625, by November 1, 2012.

Assistance for Persons with Disabilities: Contact Gail Grate, executive assistant, by November 1, 2012, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Rockland Ridge, a licensed gambling service supplier, and Galaxy Gaming, a licensed manufacturer, are requesting approval to connect "envy" and "share the wealth" "bonus features" among different card games and different tables at a house-banked card room. A similar petition was denied at the February 2012 meeting due to regulatory and policy concerns. The petitioners submitted a new petition which was filed for discussion at the April 2012 commission meeting. The petition was discussed at the May and July meetings. After the July meeting, the petition was placed on hold until the petitioners submitted their electronic equipment for staff review. Staff has completed a review of the equipment and it appears to meet the requirements in the petitioners' rule change request. The proposal will be up for discussion at the October 2012 commission meeting and up for final action at the November 2012 commission meeting.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 9.46.070.

Statute Being Implemented: Not applicable.

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

Name of Proponent: Rockland Ridge Corporation, a licensed gambling service supplier, and Galaxy Gaming, Inc., a licensed manufacturer, private.

Name of Agency Personnel Responsible for Drafting: Susan Arland, Rules Coordinator, Lacey, (360) 486-3466; Implementation: Rick Day, Director, Lacey, (360) 486-3446; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensees. Licensees are not required to expand the bonus envy wager feature.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

September 26, 2012
Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 678, filed 7/13/12, effective 8/13/12)

WAC 230-15-040 Requirements for authorized card games. (1) In order for a card game or "bonus feature" to be authorized, it must be approved by the director or the director's designee and must:

(a) Be played with standard playing cards or with electronic card facsimiles approved by the director or the director's designee; and

(b) Offer no more than four "separate games" with a single hand of cards((. However,)) and no more than three of the "separate games" may offer a wager that exceeds five dollars each. ((~~We consider bonus features and progressive jackpots separate games. If a player does not have to place a separate wager to participate, we do not consider it a separate game. An example of this is an "envy" or "share the wealth" pay out when another player achieves a specific hand; and~~)) Additionally, the following definitions and limitations apply to this section:

(i) "Separate game" - Each individual objective to be achieved within a card game that requires a separate wager and results in a distinct and separate payout based upon the outcome. We consider "bonus features" and progressive jackpots separate games unless a separate wager is not required. "Bonus features" and progressive jackpots may be combined with other "bonus features," progressive jackpots and prizes, provided that, the total amount of the wager does not exceed the limits established in this subsection and in WAC 230-15-140.

(ii) "Bonus feature" - An added prize and/or variation based on achieving the predetermined specific hand required to win the prize. Examples include, but are not limited to, "envy" and "share the wealth" "bonus features."

(c) Not allow side bets between players.

(2) Card game licensees may use more than one deck of cards for a specific game. They also may remove cards to comply with rules of a specific game, such as Pinochle or Spanish 21.

(3) Players must:

(a) Compete against all other players on an equal basis for nonhouse-banked games or against the house for house-banked games. All players must compete solely as a player in the card game; and

(b) Receive their own hand of cards and be responsible for decisions regarding such hand, such as whether to fold, discard, draw additional cards, or raise the wager; and

(c) Not place wagers on any other player's or the house's hand or make side wagers with other players, except for:

(i) An insurance wager placed in the game of Blackjack; or

(ii) ((~~An~~)) "Envy" ((~~or~~)) and "share the wealth" ((~~wager which allows a player to receive a prize if another player wins a jackpot or odds-based wager~~)) "bonus features"; or

(iii) A tip wager made on behalf of a dealer.

(4) Mini-Baccarat is authorized when operated in the manner explained for Baccarat in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Encyclopedia of Card Games*, or similar authoritative book on card games we have approved, and as further described in the commis-

sion approved game rules on the gambling commission's web site. However:

(a) Card game licensees may make immaterial modifications to the game; and

(b) Subsection (3) of this section does not apply; and

(c) The number of players is limited under WAC 230-15-055 and only one player may place a wager per wager area.

(5) A player's win or loss must be determined during the course of play of a single card game, except for a carryover pot game. A carryover pot is an optional pot that accumulates as a dealer and participating players contribute to the pot. The winner of the pot is not necessarily determined after one game and the pot can be carried over to more than one game. Carryover pots must not carryover more than ten games. Participants must include at least one player and the dealer competing for the highest qualifying winning hand. Game rules must state how the pot is distributed. If the carryover pot has not been won by the tenth game, the dealer will divide it equally between the remaining players still participating in the pot and the house or, if allowed by game rules, only the players still participating in the pot.

(6) "Envy" and "share the wealth" bonus features shall be operated as follows:

(a) If a player makes a wager that qualifies for an envy payout, they are entitled to receive a prize if another player's hand achieves the predetermined specific hand. If a player is playing more than one wagering area or if a hand they are playing is split into two or more hands and any one of their hands achieves the predetermined specific hand, their other hand(s) with a qualifying wager is (are) entitled to receive a prize.

(b) If a player makes a wager that qualifies for a "share the wealth" payout, they are entitled to receive a prize if either their hand(s) or another player's hand achieves the predetermined specific hand.

(c) "Envy" and "share the wealth" specific hand(s) may occur on different authorized card games and/or on multiple tables in a card room and all qualifying players are entitled to a prize.

Prior to offering an "envy" or "share the wealth" prize on multiple games and/or tables, card game licensees must first submit to us for approval, their internal controls detailing the methods and controls they will use to assure the integrity of these "bonus features" including, but not limited to:

(i) Identifying who has the winning hand;

(ii) How other tables offering "envy" or "share the wealth" "bonus feature" are notified that the prize has been won;

(iii) Identifying which payout table would be used to pay out prizes on different games; and

(d) Verifying winners of the "envy" or "share the wealth" prize throughout the card room.

AMENDATORY SECTION (Amending Order 608, filed 4/10/07, effective 1/1/08)

WAC 230-15-685 Restrictions on progressive jackpots. House-banked card game licensees operating progressive jackpots must follow these restrictions and procedures:

(1) Progressive jackpot funds must accrue according to the rules of the game; and

(2) At each gambling table, licensees must prominently post the amount of the progressive jackpot that players can win; and

(3) Licensees must record the beginning amount of each progressive jackpot offered, including explanations for any increases or decreases in the prize amount offered. Licensees must keep this documentation with the progressive jackpot records; and

(4) Licensees may establish a maximum limit on a progressive jackpot prize. If licensees establish a limit, they must make the amount equal to, or greater than, the amount of the jackpot when they imposed the limit. They must prominently post a notice of the limit at or near the game; and

(5) Licensees may connect progressive jackpots offered on the same card game on multiple tables within the same licensed location.

WSR 12-20-063
PROPOSED RULES
PROFESSIONAL EDUCATOR STANDARDS BOARD

[Filed October 2, 2012, 2:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-09-074.

Title of Rule and Other Identifying Information: Revises WAC 181-78A-100. Clarifies the relationship between professional educator standards board (PESB) approval and other national accreditation. Clarifies that delays in review for approval is not permitted.

Hearing Location(s): ESD 112, Klickitat Room, 2500 N.E. 65th Avenue, Vancouver, WA 98661, on November 8, 2012, at 8:30 a.m.

Date of Intended Adoption: November 8, 2012.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by October 31, 2012.

Assistance for Persons with Disabilities: Contact David Brenna by October 31, 2012, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amends rules regarding the state approval relationship to existing credentials at preparation programs. Board has determined to not grant delays in the approval review schedule.

Reasons Supporting Proposal: Attorney general recommendation.

Statutory Authority for Adoption: RCW 28A.410.210.

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

Name of Proponent: PESB, governmental.

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, P.O. Box 47236, Olympia, WA 98504, (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

October 2, 2012
David Brenna
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 12-12-033, filed 5/29/12, effective 6/29/12)

WAC 181-78A-100 Existing approved programs. Chapter 181-78A WAC rules shall govern all policies related to programs upon adoption by the professional educator standards board, which shall provide assistance to programs in the revision of their existing programs.

(1) The professional educator standards board shall determine the schedule for such approval reviews and whether an on-site visit or other forms of documentation and validation shall be used for the purposes of granting approval under program approval standards. In determining the schedule for site visits, the board shall take into consideration the partnership agreement between the state and ((~~the~~)) national ((~~Council for the~~)) accreditation ((~~of Teacher Education (NCATE)~~)) organizations as such agreement relates to the ((~~NCATE~~)) accreditation cycle and allow ((~~NCATE~~)) CAEP accredited colleges/universities to follow the ((~~NCATE~~)) CAEP schedule for their state site visit. ((~~Non-NCATE~~)) Non-CAEP accredited colleges/universities shall have a state approval site visit every five years. The professional educator standards board may require more frequent site visits at their discretion pursuant to WAC 181-78A-110(2). The professional educator standards board will not consider requests for site visit delays.

(2) Each institution shall submit its program for review when requested by the professional educator standards board to ensure that the program meets the state's program approval standards as follows:

(a) At least six months prior to a scheduled on-site visit, the institution shall submit an institutional report that provides evidence and narrative, as needed, that addresses how the program approval standards are met for each preparation program undergoing review. Evidence shall include such data and information from the annual data submissions required per WAC 181-78A-255(2) as have been designated by the professional educator standards board as evidence pertinent to the program approval process.

(b) The institutional report shall be reviewed by an off-site team whose membership is composed of:

(i) One member of the professional educator standards board;

(ii) One peer institution representative;

(iii) One individual with assessment expertise;

(iv) Two K-12 practitioners with expertise related to the programs scheduled for review; and

(v) A designated professional educator standards board staff member who shall serve as team leader.

(vi) Substitutions, drawn from (b)(i) through (iv) of this subsection, may be assigned when individuals are not available. Additions to the team shall be drawn from (b)(i) through (iv) of this subsection when necessary. The professional educator standards board liaison for that institution may be present, but shall not serve in an evaluative role. All members, including substitutes, shall be trained.

(c) The review of the off-site team shall identify additional evidence and clarifications that may be needed to provide adequate support for the institutional report.

(d) The report of the off-site team shall be submitted to the institution, which shall provide an addendum to the institutional report no later than five weeks preceding the on-site review.

(e) The on-site visit shall be conducted in compliance with the protocol and process adopted and published by the professional educator standards board. The team shall be comprised of members of the off-site review team.

(f) The final site visit report and other appropriate documentation will be submitted to the professional educator standards board.

(g) Institutions may submit a reply to the report within two weeks following receipt of the report. The reply may address issues for consideration, including a request for appeal per this subsection (g), limited to ((~~factual errors,~~)) evidence that the review disregarded state standards, failed to follow state procedures for review, or failed to consider evidence that was available at the time of the review.

(h) In considering the report, the professional educator standards board may grant approval according to WAC 181-78A-110 and 181-78A-100(1).

(i) Institutions may request a hearing in instances where it disagrees with the professional educator standards board's decision. The hearing will be conducted through the office of administrative hearings by an administrative law judge per chapter 34.05 RCW. The institution seeking a hearing will provide a written request to the professional educator standards board in accordance with WAC 10-08-035.

(3) Institutions seeking ((~~National~~)) Council for the Accreditation of ((~~Teacher Education~~)) Educator Preparation, Council for Accreditation of Counseling and Related Education Programs, and National Association of School Psychologist accreditation may request from the professional educator standards board approval for concurrent site visits which would utilize the same documentation with the exception of material submitted by the institution to the state for the professional education advisory boards and the accountability standards.

WSR 12-20-064
PROPOSED RULES
EMPLOYMENT SECURITY DEPARTMENT
[Filed October 2, 2012, 4:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-15-004.

Title of Rule and Other Identifying Information: Implements SHB 2491 by amending WAC 192-350-010 relating to determining when predecessor-successor relationships exist for the purpose of calculating unemployment insurance tax rates, and WAC 192-350-060 relating to consequences for failure to respond to requests for information.

Hearing Location(s): Employment Security Department, Maple Leaf Conference Room, 212 Maple Park Avenue S.E., Olympia, WA, on November 8, 2012, on 10:00 a.m.

Date of Intended Adoption: November 13, 2012.

Submit Written Comments to: Pamela Ames, P.O. Box 9046, Olympia, WA 98507-9046, e-mail pames@esd.wa.gov, fax (360) 902-90799 [902-9799], by November 7, 2012.

Assistance for Persons with Disabilities: Contact Kintu Nnambi by November 7, 2012, TTY (800) 833-6384 or (360) 725-9454.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The amendments to WAC 192-350-010 define statutory terminology that is necessary to determine when a predecessor-successor relationship exists for the purposes of calculating unemployment insurance tax rates. The amendments to WAC 192-350-060 establish consequences for an employer's failure to respond to requests for information.

Reasons Supporting Proposal: The rules implement changes made by chapter 2, Laws of 2012 1st sp. sess. (SHB 2491).

Statutory Authority for Adoption: RCW 50.12.010 and 50.12.040.

Statute Being Implemented: RCW 50.29.062.

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

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Larry Sheahan, 212 Maple Park Avenue S.E., Olympia, (360) 902-9245; and Enforcement: Nan Thomas, 212 Maple Park Avenue S.E., Olympia, (360) 902-9303.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Adoption of the proposed rules will impose at most minor costs on businesses in an industry. They are interpretive regulations which define new terms that appear in the statute. The regulations do not impose any new regulatory requirements on any employers.

A cost-benefit analysis is not required under RCW 34.05.328. The rules are not significant legislation rules as defined under RCW 34.05.328.

October 2, 2012
Paul Trause
Commissioner

AMENDATORY SECTION (Amending WSR 10-23-064, filed 11/12/10, effective 12/13/10)

WAC 192-350-010 What is a predecessor-successor relationship? (1) This section applies only to those individuals and organizations that meet the definition of an employer contained in RCW 50.04.080.

(2) A predecessor-successor relationship exists when a transfer occurs and one business (successor) acquires all or part of another business (predecessor). It may arise from the transfer of operating assets((,)) including, but not limited to, the transfer of one or more employees from a predecessor to a successor. It may also arise from an internal reorganization of affiliated companies. A predecessor-successor relationship also exists when an employer transfers its business to another employer, and both employers are at the time of transfer under substantially common ownership, management or control. Whether or not a predecessor-successor relationship (including a "partial predecessor" or "partial successor" relationship) exists depends on the totality of the circumstances.

(3) **Predecessor.** An employer may be a "predecessor," including a "full predecessor" or "partial predecessor," if, during any calendar year, it transfers any of the following to another individual or organization:

(a) All or part of its operating assets as defined in subsection (5) of this section; or

(b) A separate unit or branch of its trade or business.

(4) **Successor.** A "successor" may be either a "full successor" or a "partial successor." An employer may be a "full successor" if, during any calendar year, it acquires substantially all of a predecessor employer's operating assets. It may be a "partial successor" if, during any calendar year, it acquires:

(a) Part of a predecessor employer's operating assets; or

(b) A separate unit or branch of a predecessor employer's trade or business.

(5) **Operating assets.** "Operating assets" include the resources used in the normal course of business to produce operating income. They may include resources that are real or personal, and tangible or intangible. Examples include land, buildings, machinery, equipment, stock of goods, merchandise, fixtures, employees, or goodwill. "Goodwill" includes the value of a trade or business based on expected continued customer patronage due to its name, reputation, or any other factor.

(6) **Transfer of assets.** Transfers from a predecessor to a successor employer may occur by sale, lease, gift, or any legal process, except those listed in subsection ((~~(9)~~)) (12) of this section.

(7) **Simultaneous acquisition.** For purposes of successor simultaneous acquisition, the term "simultaneous" means all transfers that resulted from acquiring or reorganizing the business, beginning when the acquisition started and ending when the primary unit is transferred.

(8) **Common ownership, management and control.** Common ownership, common management and common control must be established when the transfer of a business occurs. In determining whether common ownership, management and control exist, the department may consider:

(a) Ownership-legal owner for tax and liability purposes;

(b) Familial relationships;

(c) Principals;

(d) Organized structure;

(e) Day-to-day operations;

(f) Assets and liabilities;

(g) Stated business purposes; and

(h) Other information pertinent to the inquiry.

The employer must meet all three elements, common ownership, common management and common control, for the exemption to apply.

(9) **Substantially common ownership, management or control.** In determining whether substantially common ownership, management or control exists, the department may consider the extent of commonality and similarity between employers based on:

(a) Ownership-legal owner for tax and liability purposes;

(b) Familial relationships;

(c) Principals;

(d) Corporate officers;

(e) Organized structure;

(f) Day-to-day operations;

(g) Assets and liabilities;

(h) Stated business purposes; and

(i) Other information pertinent to the inquiry.

This standard is met when **any** common ownership, management or control exists between the employers.

(10) **Substantially similar businesses.** Substantially similar business are businesses:

(a) In which the products sold or services provided exhibit a high degree of likeness but may be less than identical; and

(b) Which could reasonably be in competition with one another to provide a substantially similar service or a substantially similar product.

(11) A significant purpose of the transfer of business must be more than an incidental purpose, but may be one of many purposes. Evidence of a significant purpose of the transfer of a business may be shown by:

(a) Business records, such as corporate minutes or other documents;

(b) Statements by owners or officers of the business, or by an outside party, such as an accounting firm or tax advisor, made contemporaneous with the transfer; or

(c) Other credible evidence of the employer's intent.

Employers must provide the department evidence of the purpose of the transfer no later than thirty days after the date of transfer.

(12) **Factors.** Factors should be weighed instead of merely adding up the number of individual factors. No single factor is necessarily conclusive. Some of the factors which the department may consider as favoring establishment of a predecessor-successor (including a "full successor" or "partial successor") relationship are:

(a) Whether the employers are in the same or a like business (e.g., providing similar or comparable goods or services or serving the same market);

(b) Whether the asset(s) transferred constitute a substantial or key portion of similar assets for either the predecessor or successor;

(c) Whether the assets were transferred directly and not through an independent third party;

(d) Whether multiple types of assets (e.g., employees, real property, equipment, goodwill) transferred;

(e) Whether a significant number or significant group of employees transferred between employers;

(f) Whether the assets transferred at the same time or in a connected sequence, as opposed to several independent transfers;

(g) Whether the business name of the first employer continued or was used in some way by the second employer;

(h) Whether the second employer retained or attempted to retain customers of the first employer;

(i) Whether there was relative continuity and not a significant lapse in time between the operations of the first and second employers;

(j) Whether there was continuity of management between employers;

(k) Whether the employers shared one or more of the same or related owners;

(l) Whether documents, such as a contract or corporate minutes, show the sale or transfer of a business or a portion of a business; and

(m) Whether other factors indicate that a predecessor-successor relationship exists.

((~~(9)~~)) (13) **Exceptions.** A predecessor-successor relationship will not exist:

(a) For the purposes of chapter 50.24 RCW (payment of taxes), when the property is acquired through court proceedings, including bankruptcies, to enforce a lien, security interest, judgment, or repossession under a security agreement unless the court specifies otherwise;

(b) For the purposes of chapter 50.29 RCW (experience rating)((~~,~~));

(i) When any four consecutive quarters, one of which includes the acquisition date, pass without reportable employment by the predecessor, successor, or a combination of both; or

(ii) When a significant purpose of the transfer of a business or its operating assets is for the employer to move or expand an existing business, or for an employer to establish a substantially similar business under common ownership, management and control.

((~~(10)~~)) (14) **Burden of proof.** The department has the burden to prove by a preponderance of the evidence that a business is the successor or partial successor to a predecessor business. However, if a business fails to respond to requests for information necessary to determine a predecessor-successor relationship, the department may meet its burden by applying RCW 50.12.080 to determine the necessary facts.

AMENDATORY SECTION (Amending WSR 07-23-131, filed 11/21/07, effective 1/1/08)

WAC 192-350-060 What are the consequences if ((~~the predecessor or successor~~)) an employer fails to respond to requests for information related to a predecessor-successor designation? (1) Thirty days after mailing a request for information to an employer regarding a predecessor-successor relationship, the department may determine if a predecessor-successor relationship exists based on the information available at that time.

(2) The department may send a letter to a predecessor or successor employer to determine a partial transfer of experience. A partial successor or predecessor employer must respond to the letter within thirty days of the mailing date.

The response must show the percentage of operating assets transferred to the partial successor. Operating assets include the employees of the business.

(((~~(2)~~))) (3) If the employer does not respond, the department may apply RCW 50.12.080 to determine necessary facts. In addition, for subsequent rate years the commissioner may estimate the percentage of operating assets transferred based on the best available information, which may include employment reports filed. That percentage will transfer to the successor until it provides compelling evidence to change the estimate. Any change in the estimate will be prospective only.

WSR 12-20-068
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Order 11-01—Filed October 3, 2012, 8:22 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-09-019.

Title of Rule and Other Identifying Information: This rule making updates chapter 173-423 WAC, Low emission vehicles, to incorporate by reference recent changes to California clean car regulations to maintain consistency with the California motor vehicle emission standards and compliance with federal law.

Hearing Location(s): Department of Ecology, 300 Desmond Drive, Lacey, WA 98503, on November 7, 2012, at 6:00 p.m.

Date of Intended Adoption: November 28, 2012.

Submit Written Comments to: Neil Caudill, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, e-mail AQcomments@ecy.wa.gov, fax (360) 407-7534, by 5 p.m., November 14, 2012.

Assistance for Persons with Disabilities: Contact Tami Dahlgren at (360) 407-6830, by October 31, 2012, TTY (877) 833-6341 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates, to maintain consistency with the California motor vehicle emissions standards and compliance with federal law, include:

- Motor vehicle emission standards for criteria pollutants and greenhouse gas emissions,
- Vehicle labeling requirements,
- Option for manufacturers to use federal motor vehicle greenhouse gas standards to show compliance with California's greenhouse gas limits ("harmonization provision"),
- Option for manufacturers to show how they meet greenhouse gas limits across multiple states in lieu of state-by-state compliance ("compliance pooling"),
- On-board diagnostic system requirements,
- Clarify the emergency vehicle exemption,
- Repeal reporting requirements for emission-related equipment and required corrective action (Article 5) repealed by California in 2008,
- Other changes as needed to maintain consistency with the California motor vehicle emission standards, and
- Other minor technical and administrative changes to help users comply with the rule.

Reasons Supporting Proposal: The Washington legislature requires automotive emissions standards to be consistent with California low emission vehicles standards in Title 13 of the California Code of Regulations. The federal Clean Air Act allows states to opt into the California clean car program and requires that states who opt in maintain consistency with the California vehicle emission standards. RCW 70.120A.010 directs ecology to "amend the rules from time to time, to maintain consistency with the California motor vehicle emission standards." This rule making will incorporate by reference recent updates of Title 13 of the California Code of Regulations into chapter 173-423 WAC.

Statutory Authority for Adoption: RCW 70.120A.010.

Statute Being Implemented: Chapter 70.120A RCW.

Rule is necessary because of federal law, 42 U.S.C. Sec. 7507.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: California's Air Resources Board has submitted, to the Office of Administrative Law a regulatory proposal that would allow manufacturer compliance with the Environmental Protection Agency National Program greenhouse gas requirements for model years 2017-2025 to serve as compliance with California's adopted greenhouse gas emissions requirements for those same model years. A public hearing is scheduled for November 15. Ecology will include this rule update in our current effort if California finalizes it in time for us to do so.

Name of Proponent: Department of ecology, air quality program, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Brett Rude, Lacey, Washington, (360) 407-6847.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These amendments meet the criteria of the exemption from analysis under RCW 19.85.025 which refers to RCW 34.05.310 (4)(e) which exempts language that is dictated by statute. The reason for this is that RCW 70.120A.010 requires ecology to "amend the rules (adopting California clean car standards) from time to time to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. 7507." Ecology is following this requirement.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments meet the criteria of the exemption from analysis under RCW 34.05.328 (5)(b)(v) which exempts language that is dictated by statute. The reason for this is that RCW 70.120A.010 requires ecology to "amend the rules (adopting California clean car standards) from time to time to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. 7507." Ecology is following this requirement.

October 2, 2012
Polly Zehm
Deputy Director

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-010 Purpose. The purpose of this chapter is to establish rules implementing the California motor vehicle emission standards adopted by the 2005 legislature and codified in chapters 70.120A and 46.16A RCW.

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-040 Definitions and abbreviations. The following definitions apply to the administration of this chapter. Any term that is not defined in this section shall be as defined or described in the California Code of Regulations, Title 13, section 1900. Definitions in the California Code of Regulations, Title 13, section 1900 will prevail if any discrepancy arises between them and those set forth in this section.

(1) "Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c) ((~~and~~)), 1961.1(b), 1961.2(c), and 1961.3(b), as appropriate.

(2) "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c) ((~~and~~)), 1961.1(b), 1961.2(c), and 1961.3(b), as appropriate.

(3) "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1 and 1961.3, and incorporated herein by reference.

(4) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

(5) "Independent low volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(6) "Intermediate volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(7) "Large volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(8) "Light duty truck" is any 2000 and subsequent model motor vehicle certified to the standards in Title 13, CCR, section 1961 (a)(1) rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property or is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(9) "Medium duty passenger vehicle" (MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of persons. The medium-duty passenger vehicle definition does not include any vehicle which:

(a) Is an "incomplete truck," i.e., is a truck that does not have the primary load carrying device or container attached; or

(b) Has a seating capacity of more than twelve persons; or

(c) Is designed for more than nine persons in seating rearward of the driver's seat; or

(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition.

(10) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year. If the manufacturer has no annual production period, "model year" is the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

(11) "Nonmethane organic gas" or "NMOG" is the sum of nonoxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "*California Non-Methane Organic Gas Test Procedures*," and incorporated herein by reference.

(12) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all nonmethane organic gases from passenger cars and light duty trucks in any model year delivered in Washington that are subject to this regulation.

(13) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(14) "Small volume manufacturer" is defined as set forth in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-050 Requirement to meet California vehicle emission standards. (1) Starting with the 2009 model year, no vehicle shall be registered, leased, rented, licensed or sold for use in the state of Washington unless such vehicle is certified to California emission standards, except as provided in WAC 173-423-060, Exemptions.

(2) The state of Washington will use the vehicle emission standards used by California including:

(a) The exhaust emission standards set forth in the California Code of Regulations, Title 13, sections 1961 and 1961.2;

(b) The emission control label or smog index label requirements set forth in the California Code of Regulations, Title 13, section 1965;

(c) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1976;

(d) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

(e) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.2;

(f) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235; and

(g) The greenhouse gas emission standards as set forth in the California Code of Regulations, Title 13, section 1961.1 and 1961.3.

(3) All vehicle manufacturers shall comply with the fleet average emission requirement, and the warranty, recall and other applicable requirements set forth in this chapter.

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-060 Exemptions. The following vehicles are not subject to this chapter:

(1) Military tactical vehicles;

(2) Vehicles sold for registration and use out-of-state;

(3) Previously registered vehicles where the mileage at the time of sale exceeds seven thousand five hundred miles, provided that for vehicle dealers, the mileage at the time of sales is determined by the odometer statement at the time the vehicle dealer acquired the vehicle;

(4) Vehicles which are only available for rent to a final destination outside of Washington;

(5) Vehicles purchased by a nonresident prior to establishing residency in the state of Washington, regardless of the mileage on the vehicle;

(6) Vehicles transferred by inheritance or as a result of divorce, dissolution or legal separation; and

(7) ((~~An emergency vehicle when a public safety agency has demonstrated to the department of ecology's satisfaction that a vehicle that will meet said agency's needs is not otherwise reasonably available.~~)) Motor vehicles purchased for use by a local police department, county sheriff, fire district, or the Washington state patrol.

AMENDATORY SECTION (Amending Order 08-16, filed 1/15/09, effective 2/15/09)

WAC 173-423-070 Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer and each new 2009 and subsequent model year passenger car, light duty truck and medium duty passenger vehicle subject to this chapter shall comply with each applicable standard set forth in Table 070(1) and incorporated by reference:

Note to reader: The California ARB is updating its rules to allow manufacturer compliance with the Environmental Protection Agency National Program greenhouse gas requirements for model years 2017-2025 to serve as compliance with the California requirements for those same model years. The rules affected include Title 13, section(s) 1900, 1956.8, 1960.1, 1961, 1961.2, 1961.3, and 1976. Should California finalize its rules before ecology finalizes these rule revisions, then the effective dates for the California Title 13 sections in this draft version of Table 070(1) will be adopted into the state rule.

Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington January 14, 2009

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Chapter 1 Motor Vehicle Pollution Control Devices		
Article 1 General Provisions		
Section 1900	Definitions	((~~1/01/06~~)) 8/7/12
Section 1956.8 (g) and (h)	Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles	((~~10/11/07~~)) 8/7/12
Section 1960.1	Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles	((~~3/26/04~~)) 8/7/12
Section 1961	Exhaust Emission Standards and Test Procedures - 2004 ((~~and Subsequent~~)) through 2019 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	((~~6/16/08~~)) 8/7/12
Section 1961.1	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 ((~~and Subsequent~~)) through 2016 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	((~~1/01/06~~)) 8/7/12
Section 1961.2	Exhaust Emission Standards and Test Procedures - 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/7/12

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
Section 1961.3	Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles	8/8/12
Section 1965	Emission Control, Smog Index, and Environmental Performance Labels - 1979 and Subsequent Model-Year Motor Vehicles	((~~6/16/08~~)) 8/7/12
Section 1968.2	Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	((~~11/09/07~~)) 8/7/12
Section 1968.5	Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines	((~~11/09/07~~)) 8/7/12
Section 1976	Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions	((~~1/04/08~~)) 8/7/12
Section 1978	Standards and Test Procedures for Vehicle Refueling Emissions	((~~1/04/08~~)) 8/7/12
Article 6 Emission Control System Warranty		
Section 2035	Purpose, Applicability and Definitions	((~~11/09/07~~)) 11/9/07
((~~Section 2036~~	~~Defects Warranty Requirements for 1979 Through 1989 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles; 1979 and Subsequent Model Motorcycles and Heavy-Duty Vehicles; and Motor Vehicle Engines Used in Such Vehicles~~	~~5/15/99~~))
Section 2037	Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	((~~11/09/07~~)) 8/7/12
Section 2038	Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles	((~~11/09/07~~)) 8/7/12
Section 2039	Emission Control System Warranty Statement	12/26/90
Section 2040	Vehicle Owner Obligations	12/26/90
Section 2046	Defective Catalyst	2/15/79
Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing		
Article 2 Enforcement of New and In-Use Vehicle Standards		
Section 2109	New Vehicle Recall Provisions	12/30/83
Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls		
Section 2111	Applicability	((~~1/04/08~~)) 12/8/10
Section 2112	Definitions	((~~8/15/07~~)) 8/7/12

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
	Appendix A to Article 2.1	((~~8/15/07~~)) 8/16/09
Section 2113	Initiation and Approval of Voluntary and Influenced Emission-Related Recalls	1/26/95
Section 2114	Voluntary and Influenced Recall Plans	11/27/99
Section 2115	Eligibility for Repair	1/26/95
Section 2116	Repair Label	1/26/95
Section 2117	Proof of Correction Certificate	1/26/95
Section 2118	Notification	1/26/95
Section 2119	Recordkeeping and Reporting Requirements	11/27/99
Section 2120	Other Requirements Not Waived	1/26/95
Article 2.2 Procedures for In-Use Vehicle Ordered Recalls		
Section 2122	General Provisions	((~~1/04/08~~)) 12/8/10
Section 2123	Initiation and Notification of Ordered Emission-Related Recalls	1/26/95
Section 2124	Availability of Public Hearing	1/26/95
Section 2125	Ordered Recall Plan	1/26/95
Section 2126	Approval and Implementation of Recall Plan	1/26/95
Section 2127	Notification of Owners	1/26/95
Section 2128	Repair Label	1/26/95
Section 2129	Proof of Correction Certificate	1/26/95
Section 2130	Capture Rates and Alternative Measures	11/27/99
Section 2131	Preliminary Tests	1/26/95
Section 2132	Communication with Repair Personnel	1/26/95
Section 2133	Recordkeeping and Reporting Requirements	1/26/95
Section 2135	Extension of Time	1/26/95
Article 2.4 Procedures for Reporting Failure of Emission-Related Components		
Section 2141	General Provisions	((~~1/04/08~~)) 12/8/10
Section 2142	Alternative Procedures	2/23/90
Section 2143	Failure Levels Triggering Recall	11/27/99
Section 2144	Emission Warranty Information Report	11/27/99
Section 2145	Field Information Report	((~~11/27/99~~)) 8/7/12
Section 2146	Emissions Information Report	11/27/99
Section 2147	Demonstration of Compliance with Emission Standards	((~~8/21/02~~)) 8/7/12
Section 2148	Evaluation of Need for Recall	11/27/99
Section 2149	Notification and Subsequent Action	2/23/90
((~~**Article 5 Procedures for Reporting Failures of Emission-Related Equipment and Required Corrective Action**~~		
~~Section 2166~~	~~General Provisions~~	~~1/04/08~~
~~Section 2166.1~~	~~Definitions~~	~~1/04/08~~
~~Section 2167~~	~~Emission Warranty Information Report~~	~~1/04/08~~
~~Section 2168~~	~~Supplemental Emissions Warranty Information Report~~	~~1/04/08~~
~~Section 2169~~	~~Recall and Corrective Action for Failures of Exhaust After-Treatment Devices~~	~~1/04/08~~
~~Section 2170~~	~~Recall and Corrective Action for Other Emission-Related Component Failures (On-Board Diagnostic-Equipped Vehicles and Engines)~~	~~1/04/08~~

Title 13 CCR Division 3 Air Resources Board	Title	California Effective Date
~~Section 2171~~	~~Recall and Corrective Action for Vehicles Without On-Board Diagnostic Systems, Vehicles with Non-compliant On-Board Diagnostic Systems, or Vehicles with On-Board Computer Malfunction~~	~~1/04/08~~
~~Section 2172~~	~~Notification of Required Recall or Corrective Action by the Executive Officer~~	~~1/04/08~~
~~Section 2172.1~~	~~Ordered or Voluntary Corrective Action Plan~~	~~1/04/08~~
~~Section 2172.2~~	~~Approval and Implementation of Corrective Action Plan~~	~~1/04/08~~
~~Section 2172.3~~	~~Notification of Owners~~	~~1/04/08~~
~~Section 2172.4~~	~~Repair Label~~	~~1/04/08~~
~~Section 2172.5~~	~~Proof of Correction Certificate~~	~~1/04/08~~
~~Section 2172.6~~	~~Preliminary Tests~~	~~1/04/08~~
~~Section 2172.7~~	~~Communication with Repair Personnel~~	~~1/04/08~~
~~Section 2172.8~~	~~Recordkeeping and Reporting Requirements~~	~~1/04/08~~
~~Section 2172.9~~	~~Extension of Time~~	~~1/04/08~~
~~Section 2173~~	~~Penalties~~	~~1/04/08~~
~~Section 2174~~	~~Availability of Public Hearing~~	~~1/04/08~~))
Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks		
Section 2235	Requirements	((~~9/17/91~~)) 8/8/12

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-080 Fleet average nonmethane organic gas (NMOG) and NMOG Plus NO_x exhaust emission requirements, reporting and compliance. (1) Fleet average requirement.

(a) Effective model year 2009 through 2014, except as provided in this subsection, each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars and light duty trucks delivered for sale in Washington shall not exceed the Fleet Average NMOG Exhaust Emission Requirement set forth in the California Code of Regulations, Title 13, section 1961(b). For the 2014 model year only, a manufacturer may comply with the fleet average NMOG + NO_x values in subsection (b) of this section in lieu of complying with the NMOG fleet average emissions in this subsection. A manufacturer must either comply with the NMOG + NO_x fleet average requirements for both its PC/LDT1 fleet and its LDT2/MDPV fleet or comply with the NMOG fleet average requirements for both its PC/LDT1 fleet and its LDT2/MDPV fleet. A manufacturer must calculate its fleet average NMOG + NO_x values using the applicable full useful life standards.

(b) Effective model year 2015, each motor vehicle manufacturer's NMOG + NO_x fleet average emissions from passenger cars, light duty trucks and medium duty passenger vehicles delivered for sale in Washington shall not exceed the fleet average NMOG + NO_x exhaust emission requirement set forth in the California Code of Regulations, Title 13, section 1961.2(b).

Compliance shall be based on the number of vehicles, subject to this regulation, delivered for sale in the state of Washington.

(2) Fleet average NMOG and NMOG Plus NO_x exhaust emission credits and debits.

(a) Effective model year 2009 through 2014, except as provided in this subsection, each vehicle manufacturer can accrue NMOG emission credits and debits and use credits in accordance with the procedures in the California Code of Regulations, Title 13, section 1961(c). For the 2014 model year only, a manufacturer may comply with the fleet average NMOG + NO_x values in subsection (b) of this section in lieu of complying with the NMOG fleet average emissions in this subsection. A manufacturer must either comply with the NMOG + NO_x fleet average requirements for both its PC/LDT1 fleet and its LDT2/MDPV fleet or comply with the NMOG fleet average requirements for both its PC/LDT1 fleet and its LDT2/MDPV fleet. A manufacturer must calculate its fleet average NMOG + NO_x values using the applicable full useful life standards.

(b) Effective model year 2015, each vehicle manufacturer may accrue NMOG + NO_x emission credits and debits and use credits in accordance with the procedures in the California Code of Regulations, Title 13, section 1961.2(c).

Debits and credits accrued and used shall be based on the number of vehicles, subject to this chapter, produced and delivered for sale by each manufacturer, in the state of Washington.

(3) Reporting. ((~~Commencing with the~~))

(a) Effective model year 2009 through model year 2014. Except as provided in this subsection, each manufacturer shall submit by March 1 a report to the department of ecology that ((~~shall include:~~

~~(a) Premodel year data which projects the fleet average NMOG exhaust emissions for vehicles expected to be delivered for sale in Washington.~~

~~(b) End-of-model year data which~~)) calculates the fleet average NMOG exhaust emissions for the model year just ended.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961 and shall be in the same format used to report such information to the California Air Resources Board. Manufacturers that elect to comply with the NMOG + NO_x fleet average emission limit for 2014 must report as provided in subsection (b) of this section.

(b) Effective model year 2015 and each model year thereafter, each manufacturer shall submit by March 1st a report to the department of ecology that calculates the fleet average NMOG + NO_x exhaust emissions for the model year just ended.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961.2 and shall be in the same format used to report such information to the California Air Resources Board.

(4) Compliance with fleet average NMOG requirement. ((~~Beginning in~~)) Effective model year 2012 through 2014, if a report submitted by the manufacturer under subsection (3) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standard, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961 (c)(3), and in accordance with subsection (2) of this section.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

((~~For model years 2009 through 2011 the Fleet Average Enforcement Report, if needed, must be submitted to the department of ecology by March 1, 2012. If debits are accrued in all three years, one year of debits must be equalized by the end of the 2012 model year.~~)) (5) Compliance with fleet average NMOG + NO_x requirement. Beginning in model year 2015, if a report submitted by the manufacturer under subsection (3)(b) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standard, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961.2 (c)(3), and in accordance with subsection (2) of this section.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

(6) For model years 2009 through 2011, the Fleet Average Enforcement Report, if needed, must be submitted to the department of ecology by March 1, 2012. If debits are accrued in all three years, one year of debits must be equalized by the end of the 2012 model year.

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-090 Fleet average greenhouse gas exhaust emission requirements, reporting and compliance. (1) Each manufacturer subject to the greenhouse gas provisions of this regulation shall comply with emissions standards, fleet average greenhouse gas exhaust mass emission requirements for passenger car, light duty truck, medium duty passenger vehicle weight classes, and other requirements of the California Code of Regulations, Title 13, section 1961.1 and 1961.3.

(2) Large volume manufacturer. The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks, and medium-duty passenger vehicles produced and delivered for sale in the state of Washington by a large volume manufacturer for each 2009 and subsequent model year are established in the California Code of Regulations, Title 13, section 1961.1 and 1961.3.

(3) Small, intermediate and independent manufacturers. The fleet average greenhouse gas exhaust emission requirements for passenger cars, light-duty trucks, and medium-duty passenger vehicles delivered for sale in the state of Washington by small volume, intermediate volume and independent low volume manufacturers are set forth in the California Code of Regulations, Title 13, section 1961.1, which specifies that requirements for these manufacturers are waived prior to the 2016 model year and CCR, Title 13, section 1961.3 which specifies the requirements that apply for the 2017 and each subsequent model year.

(4) Greenhouse gas credits and debits. Greenhouse gas credits and debits may be accrued and used based on each manufacturer's sale of vehicles in Washington in accordance with the California Code of Regulations, Title 13, section 1961.1(b) and 1961.3(b).

(5) Optional alternative compliance with greenhouse gas emission standards. Greenhouse gas vehicle test groups that are certified pursuant to the California Code of Regulations, Title 13, section 1961.1 (a)(1)(B)2.a in the state of California may receive equivalent credit if delivered for sale and use in the state of Washington.

(6) Alternative compliance credit. A manufacturer shall submit to the department of ecology the data set forth in the California Code of Regulations, Title 13, section 1961.1 (a)(1)(B)2.a.i for Washington specific sale and use in order to receive the credit identified in subsection (5) of this section.

(7) Reporting on greenhouse gas requirements. Beginning with the 2009 model year, each manufacturer shall submit by March 1 a report to the department of ecology that shall include:

((~~(a) Premodel year data which projects the fleet average greenhouse gas emissions for vehicles expected to be delivered for sale in Washington.~~

~~(b)~~)) End-of-model year data which calculates the fleet average greenhouse gas emissions for the model year just ended. The report shall include the number of greenhouse gas vehicle test groups, delineated by model type, certified pursuant to the California Code of Regulations, Title 13, section 1961.1 and 1961.3, as appropriate.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961.1 and 1961.3 and shall be in the same format used to report such information to the California Air Resources Board.

(8) Compliance with fleet average greenhouse gas requirements. Beginning in model year 2009, if the report submitted by the manufacturer under subsection (7) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standards, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961.1(b) and 1961.3(b), as appropriate.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

AMENDATORY SECTION (Amending WSR 05-24-044, filed 11/30/05, effective 12/31/05)

WAC 173-423-100 Manufacturer delivery reporting requirements. (1) The manufacturer shall submit to the department of ecology one copy of the California Executive Order and Certificate of Conformity for certification of new motor vehicles for each engine family to be sold in the state of Washington within thirty days of ((~~receiving the Executive Order from the California Air Resources Board~~)) the department of ecology's request. If such reports are available electronically, the manufacturer shall send the record in an electronic format acceptable to the department of ecology. ((~~Manufacturers may discontinue submitting these reports if so notified by the department of ecology.~~))

(2) Commencing with the 2009 model year and prior to the beginning of each model year, upon request, each manufacturer shall submit to the department of ecology a list of all models of medium duty vehicles and medium duty passenger vehicles that will be delivered to Washington dealers. Medium duty vehicles are those with a GVWR of 8,501 to 14,000 pounds.

(3) Upon request, each manufacturer shall report to the department of ecology the vehicle identification numbers (VIN) of each passenger car, light duty truck and medium duty passenger vehicle delivered to each Washington dealer that is not certified to California emission standards.

(4) For the purposes of determining compliance with this chapter, the department of ecology may require any vehicle manufacturer to submit any documentation the department of ecology deems necessary to the effective administration and enforcement of this chapter, including all certification materials submitted to the California Air Resources Board.

AMENDATORY SECTION (Amending Order 08-16, filed 1/15/09, effective 2/15/09)

WAC 173-423-110 Warranty requirements. (1) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall provide, to the ultimate purchaser and each subsequent purchaser, a warranty that complies with the requirements set forth in the California Code of Regulations, Title 13, sections 2035 through 2038, 2040, and 2046.

(2) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall include the emission control system warranty statement that complies with the requirements in the California Code of Regulations, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Washington vehicle owners of the applicability of the warranty. The manufacturer shall provide a telephone number appropriate for Washington residents.

(3) All manufacturers shall submit to the department of ecology Failure of Emission-Related Components reports as defined in the California Code of Regulations, Title 13, section 2144 for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board, in lieu of submitting reports for vehicles subject to this chapter. Manufacturers may discontinue submitting these reports if so notified by the department of ecology.

(((~~(4) Upon request, all manufacturers shall submit to the department of ecology Emission Warranty Information Reports (EWIRs) and Supplemental Emission Warranty Information Reports (SEWIRs) as defined in the California Code of Regulations, Title 13, sections 2167 and 2168 for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the EWIRs and SEWIRs that are submitted to the California Air Resources Board, in lieu of submitting reports for vehicles subject to this chapter.~~))

AMENDATORY SECTION (Amending Order 08-16, filed 1/15/09, effective 2/15/09)

WAC 173-423-120 Recalls. (1) Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any section of Title 13, which results in the recall ((~~and/or corrective action~~)) of any vehicle pursuant to the California Code of Regulations, Title 13, sections 2109 through 2135 ((~~or sections 2166 through 2172.9,~~)) shall be applicable to vehicles registered in the state of Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that the action is not applicable to vehicles registered in Washington, the action shall not apply in Washington.

(2) Any voluntary or influenced emission-related recall campaign ((~~or corrective action~~)) initiated by any manufacturer pursuant to the California Code of Regulations, Title 13,

sections 2113 through 2121 ((~~or sections 2166 through 2172.9,~~)) shall extend to all applicable vehicles registered in Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that said campaign is not applicable to vehicles registered in Washington, the campaign shall not apply in Washington.

(3) For vehicles subject to an action pursuant to subsection (1) ((~~or (2)~~)) of this section, each manufacturer shall send to owners of vehicles registered in the state of Washington a notice that complies with the requirements in the California Code of Regulations, Title 13, sections 2118((~~,~~)) or 2127((~~, or 2172.3~~)). Such notice shall contain a telephone number appropriate for Washington residents.

WSR 12-20-069
PROPOSED RULES
DEPARTMENT OF FISH AND WILDLIFE

[Filed October 3, 2012, 8:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-05-122 on February 22, 2012.

Title of Rule and Other Identifying Information: Amend wildlife conflict rules: WAC 232-36-030 Definitions, 232-36-051 Killing wildlife causing private property damage, 232-36-100 Payment for commercial crop damage—Limitations, 232-36-200 Payment for commercial livestock damage—Limitations, 232-36-250 Payment for noncommercial livestock or guard dog losses—Limitations, 232-36-260 Application for cash compensation for noncommercial livestock or guard dog losses—Procedure, and 232-36-400 Commercial crop or livestock damage claim—Dispute resolution.

Hearing Location(s): Natural Resources Building, Conference Room 172, 1111 Washington Street S.E., Olympia, WA 98501, on November 8-9, 2012, at 8:30 a.m.

Date of Intended Adoption: On or after December 14-15, 2012.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Wildthing@dfw.wa.gov, fax (360) 902-2162, by October 26, 2012.

Assistance for Persons with Disabilities: Contact Tami Lininger by November 2, 2012, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to amend rules concerning the conditions and criteria for compensation for property damage from wildlife.

Reasons Supporting Proposal: This proposal modifies the criteria for landowners to get compensation and services from the state for wildlife damage, increases property owner flexibility, encourages the use of preventative measures and clarifies priorities and assistance available to address property damage.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055.

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

Name of Proponent: Washington department of fish and wildlife (WDFW), governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Nate Pamplin, Natural Resources Building, Olympia, (360) 902-2693; and Enforcement: Bruce Bjork, Natural Resources Building, Olympia, (360) 902-2373.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

1. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule: These amendments change existing rules for claims for cash compensation for commercial livestock damage caused by wild carnivores by:

- Allows livestock and pet owners regardless of whether they are commercial operators to kill one game animal when it is attacking their domestic livestock or pet;
- Allow livestock operators regardless of whether they are considered commercial enterprises to receive cash compensation for livestock lost to wolves.
- Expands the types of livestock and guard animals that may be compensated for if killed or injured by wolves.

2. Kinds of Professional Services That a Small Business Is Likely to Need in Order to Comply with Such Requirements: Applicants for claims of livestock losses are responsible for assessing the value of their losses. WDFW will assist owners of livestock if they chose to hire additional staff (range riders) to employ preventive nonlethal and lethal means to prevent livestock losses. Some small businesses may need to hire bookkeepers, accountants, or other professionals to assist with required paperwork for documenting losses and other impacts to their livestock operation.

3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs: This is hard to estimate because most businesses will not have to hire bookkeepers, accountants, or other professionals because they can do this work themselves. Some small businesses may have friends or family who are willing to function as range riders to check on livestock and haze wolves, so the cost may be limited.

Assuming, however, that a small business must pay for all of these things, costs may average the following:

- Range rider: $5,000 per month if used full time.
- Guard dogs: $3,000 to purchase plus an estimated annual maintenance of $1,200.
- Fencing: $14/ft. for installation; average electric fence to protect livestock is assumed to be one mile long.

4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue? No. The intent of these rules is to help businesses avoid livestock losses in the first place, and compensate them if they take appropriate steps but experience losses anyway. If businesses follow the procedures in these rules, they should be able to minimize lost sales or revenue.

5. Cost of Compliance for the Ten Percent of Businesses That Are the Largest Businesses Required to Comply with the Proposed Rules, Using One or More of the Following as a Basis for Comparing Costs:

1. Cost per employee;

2. Cost per hour of labor; or

3. Cost per one hundred dollars of sales.

Larger livestock operations will experience more costs than smaller operators for things like fence installation, range riders, and bookkeeping/accounting, but the reason for this is that they have a larger land mass or more livestock. Their cost per hour of labor or per one hundred dollar of sales has little correlation to the costs of complying with these rules, especially since these rules are designed to help businesses avoid livestock losses.

6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So: The department works closely with livestock producers to deter wildlife that causes damage so that they experience fewer losses. Costs that producers incur as a result of these rules are reasonable, considering the benefits. For example, WDFW assists with fencing to livestock producers who request it, which may be very costly. Therefore, it is reasonable to require the operator to install the fence himself/herself, or pay to have someone else do it, if the fencing will keep wildlife away from livestock and prevent losses.

7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule: The department has collaborated on an ongoing basis with commercial growers and livestock producers to develop rules that are fair to everyone but that also help to deter abuses. WDFW will notify commercial growers and livestock owners of the opportunity to comment on these rules and to continue collaborating on changes.

8. A List of Industries That Will Be Required to Comply with the Rule: Growers of commercial crops and livestock producers; and wildlife control operators.

A copy of the statement may be obtained by contacting Wildlife Program, 600 Capitol Way North, Olympia, WA 98501-1091, phone (360) 902-2515, fax (360) 902-2162, e-mail Wildthing@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. These are not hydraulic rules.

October 3, 2012
Joanna M. Eide
Administrative Regulations Analyst

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

WAC 232-36-030 Definitions. Definitions used in rules of the fish and wildlife commission are defined in RCW 77.08.010, and the definitions for wildlife interactions are defined in RCW 77.36.010. In addition, unless otherwise provided, the following definitions are applicable to this chapter:

"Act of damaging" means that private property is in the process of being damaged by wildlife, and the wildlife are on the private property, which contains commercial crops, pasture, or livestock.

"Big game" means those animals listed in RCW 77.08.030.

"Claim" means an application to the department for compensation under this chapter.

"Claimant" means owner of commercial crop or livestock who has filed a wildlife damage claim for cash compensation.

"Commercial crop" means a commercially raised horticultural and/or agricultural product and includes the growing or harvested product, but does not include livestock, forest land, or rangeland. For the purposes of this chapter, Christmas trees and managed pasture grown using agricultural methods including one or more of the following: Seeding, planting, fertilizing, irrigating, and all parts of horticultural trees, are considered a commercial crop and are eligible for cash compensation.

"Commercial livestock" means cattle, sheep, and horses held or raised by a person for sale.

"Compensation" means a cash payment, materials, or service.

"Completed written claim" means that all of the information required on a department crop or livestock damage claim form is supplied and complete, including all supplemental information and certifications required to process the claim.

"Damage" means economic losses caused by wildlife interactions.

"Damage claim assessment" means department approved methods to evaluate crop loss and value caused by deer or elk damage to commercial crops, or livestock losses and value caused by bear, cougar, or wolves.

"Eligible farmer" means an owner who satisfies the definition of eligible farmer pursuant to RCW 82.08.855 (4)(b)(i) through (iv).

"Emergent" means an unforeseen circumstance beyond the control of the landowner or tenant, that presents a real and immediate threat to crops, domestic animals, or fowl.

"Game animal" means wild animals that shall not be hunted except as authorized by the commission.

"Guard dog" means dogs trained for the purpose of protecting livestock from attack by wildlife or for herding livestock.

"Immediate family member" means spouse, state registered domestic partner, brother, sister, grandparent, parent, child, or grandchild.

"Immediate threat of physical harm" means that animal-to-human bodily contact is imminent; and the animal is in attack posture/mode.

"Livestock" means horses, cattle, sheep, goats, swine, donkeys, mules, llamas, and alpacas.

"Owner" means a person who has a legal right to commercial crops, commercial livestock, or other private property that was damaged during a wildlife interaction.

"Physical act of attacking" means actual or imminent animal-to-human physical contact.

"Public hunting" means an owner satisfies the "public hunting" requirement for his or her land, as defined in WAC 232-36-300.

"Wild animal" means those species of the class Mammalia whose members exist in Washington in a wild state.

"Wildlife control operator" means a person who has successfully completed the training and obtained one or more levels of certification from the department to assist landowners to prevent or control problems caused by wildlife.

"Wildlife interaction" means the negative interaction and the resultant damage between wildlife and commercial crops, commercial livestock, or other property.

AMENDATORY SECTION (Amending Order 10-291, filed 11/8/10, effective 12/9/10)

WAC 232-36-051 Killing wildlife causing private property damage. The fish and wildlife commission is authorized to classify wildlife as game, as endangered or protected species, or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing property damage.

The conditions for killing wildlife vary, based primarily on the classification of the wildlife species, the imminent nature of the threat to damage private property, the type of private property damage, and the preventive and nonlethal methods employed by the person prior to the damage event. Additional conditions defined by the department may also be important, depending on individual situations. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 232 WAC.

(1) Killing wildlife causing damage to a commercial crop or commercial livestock.

(a) It is permissible to kill unclassified wildlife, predatory birds, and big game animals that are in the act of damaging commercial crops or livestock, under the following conditions:

(i) Predatory birds (defined in RCW 77.08.010(39)) and unclassified wildlife that are in the act of damaging commercial crops or livestock may be killed with the express permission of the owner at any time on private property, to protect commercial crops or livestock.

(ii) An owner with a valid, written damage prevention agreement with the department may kill an individual (one) big game animal while it is in the act of damaging commercial crops.

(iii) An individual (one) big game animal may be killed during the physical act of attacking livestock or pets.

(iv) Multiple big game animals may be killed while they are in the act of damaging commercial crops or livestock if the owner is issued a kill permit by the department.

(v) A damage prevention agreement or kill permit must include: An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal; a description of the properties where lethal removal is allowed; the species and sex of the animal that may be killed; the terms of the agreement/permit; the dates when lethal removal is authorized; who may kill the animal(s); and other conditions developed within department procedural documents.

(b) It is unlawful to kill protected species (as defined in WAC 232-12-011) or endangered species (as defined in WAC 232-12-014) unless authorized by commission rule or with a permit from the department, with the following additional requirements:

(i) Federally listed threatened or endangered species will require federal permits or federal authority, in addition to a state permit.

(ii) All migratory birds are federally protected and may require a federal permit or federal authority, in addition to a state permit.

(2) Killing wildlife causing damage or killing wildlife to prevent private property damage.

(a) An individual (one) big game animal may be killed during the physical act of attacking livestock or pets.

(b) Predatory birds (as defined in RCW 77.08.010(39)), unclassified wildlife, and eastern gray squirrels may be killed with the express permission of the property owner at any time, to prevent private property damage on private real property.

((~~(b)~~)) (c) Subject to subsection (6) of this section, the following list of wildlife species may be killed with the express permission of the owner, when causing damage to private property: Raccoon, fox, bobcat, beaver, muskrat, mink, river otter, weasel, hare, and cottontail rabbits.

((~~(c)~~)) (d) The department may make agreements with landowners to prevent private property damage by wildlife. The agreements may include special hunting season permits such as: Landowner damage prevention permits, spring black bear hunting permits, permits issued through the landowner hunting permit program, kill permits, and Master Hunter permits.

((~~(d)~~)) (e) Landowners are encouraged to allow general season hunters during established hunting seasons on their property to help minimize damage potential and concerns.

(3) Wildlife control operators may assist property owners under the conditions of their permit, as established in WAC 232-36-060 and 232-36-065.

(4) Tribal members may assist property owners under the conditions of valid comanagement agreements between tribes and the department. Tribes must be in compliance with the agreements including, but not limited to, adhering to reporting requirements and harvest restrictions.

(5) Hunting licenses and tags are not required to kill wildlife under this section, unless the killing is pursuant to subsections (2)(c) and (d) of this section. Tribal members operating under subsection (4) of this section are required to meet tribal hunting license, tag, and permit requirements.

(6) Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this rule are subject to the laws and rules of the state including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC.

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

WAC 232-36-100 Payment for commercial crop damage—Limitations. Owners, who have worked with the department to prevent deer and elk damage, but continue to experience losses, may be eligible to file a damage claim and receive cash compensation from money appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of a commercial crop, whether growing or harvested, and shall be paid only to the owner of the crop at the time of damage, without assignment. Cash compensation for claims from deer and elk damage shall not include damage to other real or personal property, including other vegetation or animals, lost profits, consequential damages, or any other damages. The department is authorized to pay up to ten thousand dollars to the owner per claim.

Claims for cash compensation will be denied when:

(1) The claim is for a noncommercial crop;

(2) The owner of the commercial crop does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);

(3) The loss estimate is less than one thousand dollars;

(4) No claim will be processed unless the owner provides the department with an approved checklist of the preventative and nonlethal means that have been employed, and the owner has complied with the terms and conditions of his or her agreement(s) with the department;

(5) An owner or lessee has accepted noncash compensation to offset crop damage in lieu of cash. Acceptance of noncash compensation will constitute full and final payment for crop damages within the growing season of the damaged crop;

(6) An owner or lessee has denied the department's offer of fencing as a long-term preventative measure;

(7) Damages to the commercial crops claimed are covered by insurance or are eligible for payment from other entities. Any portion of the actual damage not covered by others is eligible for compensation from the department;

(((~~(7)~~))) (8) The property where the damage occurred was not open to public hunting consistent with WAC 232-36-300 for the species causing the damage, unless, as determined by the department, the property is inconsistent with hunting or hunting would not address the damage problem. This includes all properties owned or leased by the owner adjacent to, contiguous to, or in the vicinity of the property where crop damage occurred;

(((~~(8)~~))) (9) The crop is grown or stored on public property;

(((~~(9)~~))) (10) The owner or lessee fails to provide on-site access to the department or designee for inspection and investigation of alleged damage or to verify eligibility for a claim;

(((~~(10)~~))) (11) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within WAC 232-36-110;

(((~~(11)~~))) (12) The owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

(((~~(12)~~))) (13) The owner or designee has harvested commercial crops without an investigation completed under the direction of the department; or

(((~~(13)~~))) (14) The department has expended all funds appropriated for payment of such claims for the current fiscal year.

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

WAC 232-36-200 Payment for commercial livestock damage—Limitations. Owners who have worked with the department to prevent depredation but continue to experience losses, or who experience unforeseen losses, may be eligible to file a damage claim and receive cash compensation. Cash compensation will only be provided to livestock owners by the department when specifically appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of commercial livestock caused by wild bears, cougars, or wolves and shall be paid only to the owner of the livestock ((~~at the time of damage~~)), without assignment. Cash compensation for livestock losses from bears, cougars, and wolves shall not include damage to other real or personal property, including other vegetation or animals, ((~~lost profits,~~)) consequential damages, or any other damages including veterinarian services. However, livestock owners under written agreement with the department will be compensated consistent with their agreement which may extend beyond the limitations in this section. The department is authorized to pay up to two hundred dollars per sheep and one thousand five hundred dollars per head of cattle or per horse, and no more than ten thousand dollars to the commercial livestock owner per claim.

Claims for cash compensation will be denied when:

(1) Funds for livestock compensation have not been specifically appropriated by the legislature;

(2) The claim is for livestock other than sheep, cattle, or horses;

(3) The owner of the commercial livestock does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);

(4) The loss estimate is less than five hundred dollars;

(5) The owner fails to provide the department with an approved checklist of the preventative and nonlethal means that have been employed, or the owner failed to comply with the terms and conditions of his or her agreement(s) with the department;

(6) The owner has accepted noncash compensation to offset livestock losses in lieu of cash. Acceptance of noncash compensation will constitute full and final payment for livestock losses within a fiscal year;

(7) Damages to the commercial livestock claimed are covered by insurance or are eligible for payment from other entities. However, any portion of the damage not covered by others is eligible for filing a claim with the department;

(8) The owner fails to provide on-site access to the department or designee for inspection and investigation of alleged attack or to verify eligibility for claim;

(9) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within this chapter;

(10) No claim will be processed if the owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

(11) The owner or designee has salvaged or rendered the carcass or allowed it to be scavenged without an investigation completed under the direction of the department; or

(12) The department has expended all funds appropriated for payment of such claims for the current fiscal year.

NEW SECTION

WAC 232-36-250 Payment for noncommercial livestock or guard dog losses—Limitations. Owners who experience unforeseen losses, have an agreement with the department, or who have implemented conflict preventative measures on their own may be eligible to file a claim and receive cash compensation. Cash compensation will only be provided to livestock owners by the department when funds have been provided for those purposes. Damages payable under this section are subject to the conditions of the funding source and are limited to the lost or diminished value of livestock or guard dogs caused by wild wolves and shall be paid only to the owner of the livestock or guard dog, without assignment. Cash compensation for livestock losses from wolves shall not include damage to other real or personal property, including other vegetation or animals, consequential damages, or any other damages except veterinarian services may be covered up to the loss value for the livestock or guard dog. However, livestock owners under written agreement with the department will be compensated (cash, materials, and services) consistent with their agreement which may extend beyond the limitations in this section. The department is authorized to pay for the replacement cost of the animal up to two hundred dollars per sheep or goat; five hundred dollars per swine, donkey, or mule; and one thousand five hundred dollars per head of cattle or per horse, llama, alpaca, or guard dog and no more than ten thousand dollars to the livestock owner per claim.

Claims for cash compensation will be denied when:

(1) Funds for compensation have not been specifically provided by contract appropriation, or other source;

(2) The claim is for anything other than livestock or guard dogs;

(3) The owner fails to provide the department with an approved checklist or narrative describing the preventative and nonlethal means that have been employed, or the owner failed to comply with the terms and conditions of his or her agreement(s) with the department;

(4) The owner has accepted noncash compensation to offset losses in lieu of cash. Acceptance of noncash compensation will constitute full and final payment for losses within a fiscal year consistent with their agreement;

(5) Damages to the livestock or guard dogs claimed are covered by insurance or are eligible for payment from other entities. However, any portion of the damage not covered by others is eligible for filing a claim with the department;

(6) The owner fails to provide on-site access to the department or designee for inspection and investigation of alleged attack or to verify eligibility for claim;

(7) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within this chapter;

(8) No claim will be processed if the owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

(9) The owner or designee has salvaged or rendered the carcass or allowed it to be scavenged without an investigation completed under the direction of the department; or

(10) The department has expended all funds appropriated for payment of such claims for the current fiscal year.

NEW SECTION

WAC 232-36-260 Application and payment of cash compensation for noncommercial livestock or guard dog losses—Procedure. Pursuant to this section, the department may distribute money specifically provided for this purpose to pay livestock losses caused by wild wolves in the amount of up to ten thousand dollars per claim unless, following an appeal, the department is ordered to pay more (see RCW 77.36.130(2)). The department will develop claim procedures and application forms consistent with this section for cash compensation of livestock and guard dog losses. Partnerships with other public and private organizations to assist with completion of applications, assessment of losses, and to provide funding for compensation are encouraged.

Filing a claim:

(1) Owners who experience a loss or losses under emergent situations may file a claim for cash compensation if they meet eligibility requirements.

(2) Claimant must notify the department within twenty-four hours of discovery of livestock attack.

(3) Damage claim assessment of amount and value of livestock loss is the primary responsibility of the claimant.

(4) Assessment/investigation of the cause of the loss will be conducted by the department:

(a) The owner must provide access to department staff or designees to investigate the cause of death or injury to livestock and use reasonable measures to protect evidence at the depredation site.

(b) Federal officials may be responsible for the investigation when it is suspected that the attack was by a federally listed species.

(5) Claimant must request a damage claim application within ten days of a loss.

(6) A complete written claim must be submitted to the department within sixty days of an attack on livestock.

(7) The claim form declaration must be signed, affirming that the information provided is factual and truthful, before the department will process a claim.

(8) In addition to a completed claim form, an applicant must provide:

(a) Claimant must provide proof of legal ownership or contractual lease of claimed livestock.

(b) Claimant must provide records documenting livestock value based on current market price.

(c) Declaration signed under penalty of perjury indicating that the applicant is eligible for the claim, meets eligibility requirements listed under this section, and all claim evaluation and assessment information in the claim application is to the best knowledge of the claimant true and accurate.

(d) Copy of any insurance policy covering livestock loss claimed.

(e) Copy of application for other sources of loss compensation and any payment or denial documentation.

Settlement of claims:

(9) Subject to money appropriated to pay for livestock losses, undisputed claims will be paid up to ten thousand dollars.

(10) Compensation paid by the department, in addition to any other compensation, may not exceed the total value of the assessed livestock loss.

(11) Valuation of the lost livestock will be determined by the sales market at the time the animals would normally be sold. Replacement livestock (to be retained by the owner) will be valued based on the average weight of herd mates at the time of weaning at the cash market price received. Depredated cows or ewes, will be replaced based on the value of a bred animal of the same age and type as the one lost, and bulls will be replaced using actual purchase price prorated based on a four year depreciation cycle minus salvage value. The department may utilize the services of a certified livestock appraiser to assist in the evaluation of livestock claims.

(12) Upon completion of the evaluation, the department will notify the owner of its decision to either deny the claim or make a settlement offer (order). The owner has sixty days from the date received to accept the department's offer for settlement of the claim or to submit an appeal of the order. The response must be in writing and the signed document may be mailed or submitted by fax or e-mail. If no written acceptance or request for appeal is received, the offer is considered rejected and not subject to appeal.

(13) The department will prioritize payment for livestock losses first to owners with written agreements with the department and then in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for livestock losses during the first fiscal year of a biennium, the claim shall be held over until the following fiscal year when funds become available. Claims that are carried over will take first priority and receive payment before any new claims are paid. Claims will not be carried from one biennium to the next.

AMENDATORY SECTION (Amending Order 10-156, filed 6/23/10, effective 7/24/10)

WAC 232-36-400 Commercial crop or livestock damage claim—Dispute resolution. For claims where the owner has met all claim eligibility criteria and procedures, but ultimately rejects the written settlement offer (order) for crop or livestock loss and/or value assessment, the provisions of this section shall apply:

Informal resolution:

(1) If the owner rejects the property loss or value assessment and would like to discuss a negotiated settlement, he or she can request a meeting by notifying the department in writing within ten days of receiving the settlement offer or claim denial (order).

(2) A department representative and the owner or designee(s) will meet and attempt to come to mutual resolution.

(3) A livestock appeals committee may be established with a minimum of three citizen members appointed by statewide livestock organization(s), a representative from the department of fish and wildlife, and a representative from the department of agriculture to review and recommend a settlement if requested by the claimant.

(4) Monetary compensation or noncash compensation, mutually agreed upon by both the department and owner, shall be binding and constitute full and final payment for claim.

((~~(4)~~)) (5) If parties cannot agree upon damages, the owner may elect to apply for an adjudicative proceeding pursuant to chapter 34.05 RCW.

Adjudicative proceeding:

((~~(5)~~)) (6) If the owner wishes to appeal the claim denial or the department settlement offer (order), the owner may request an adjudicative proceeding consistent with chapter 34.05 RCW within sixty days of receiving the original order.

((~~(6)~~)) (7) The request must comply with the following:

(a) The request must be in writing, and the signed document may be mailed or submitted by fax or e-mail;

(b) It must clearly identify the order being contested (or attach a copy of the order);

(c) It must state the grounds on which the order is being contested and include the specific facts of the order that are relevant to the appeal; and

(d) The request must identify the relief being requested from the proceeding (e.g., modifying specific provisions of the order).

((~~(7)~~)) (8) The proceeding may only result in the reversal or modification of an order when the preponderance of evidence shows:

(a) The order was not authorized by law or rule;

(b) A fact stated in the order is materially incorrect;

(c) The award amount offered is inconsistent with applicable and accepted procedures, rule, and/or law; or

(d) Material information or evidence was made available by the owner at the time of the damage assessment, but was not considered in the order.

((~~(8)~~)) (9) The burden of proof is on the appellant (owner) to show that he or she is eligible for a claim and that the damage assessment is reliable (see RCW 77.36.130(4)).

((~~(9)~~)) (10) Findings of the hearings officer are subject to the annual funding limits appropriated by the legislature and payment rules (WAC 232-36-110(12) ((~~and~~)), 232-36-210(9), and 232-36-260) of the commission.

WSR 12-20-071
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed October 3, 2012, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-12-119.

Title of Rule and Other Identifying Information: Chapter 16-232 WAC, Use restricted herbicides in certain counties.

Hearing Location(s): North Willapa Harbor Grange Hall, 3198 State Route 105, Grayland, WA 98547, on November 28, 2012, at 1 p.m.

Date of Intended Adoption: December 11, 2012.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARules Comments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., November 28, 2012.

Assistance for Persons with Disabilities: Contact WSDA receptionist by November 16, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state department of agriculture (WSDA), pesticide management division, is proposing to amend chapter 16-232 WAC in order to restrict the use of two insecticides in the Grayland cranberry growing area to prevent water contamination.

The Grayland cranberry growers instituted the best management practices (BMPs) contained in this rule proposal, voluntarily over the last fifteen years. Most growers, eighty-five percent or more, have already completed the work necessary to comply with this rule. This rule only intends to require the BMPs to all growers, thus creating a fair playing field and preventing further contamination of waterways in Grayland. Continued or greater contamination of waterways in Grayland with these or other pesticides could result in a much greater cost to this industry and their growers through clean up costs and more aggressive restrictions on pesticide use in this area. Further restrictions on this industry could end cranberry growing in this area. The intent of these BMPs is to prevent the further contamination and prevent further more expensive restrictions to growers and the cranberry industry.

The proposed amendments to this chapter include:

- Restricting the use of chlorpyrifos and diazinon when applied to cranberries in Grayland.
- Requiring cribbing and covering of ditches adjacent to cranberry beds in the Grayland area.
- Requiring protection of source water when chemigating cranberry beds with chlorpyrifos and diazinon.

Statutory Authority for Adoption: RCW 17.21.030 and chapter 34.05 RCW.

Statute Being Implemented: RCW 17.21.030.

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

Name of Proponent: WSDA, governmental.

Name of Agency Personnel Responsible for Drafting: Robin Schoen-Nessa, Olympia, Washington, (360) 902-2038; Implementation and Enforcement: Cliff Weed, Olympia, Washington, (360) 902-2040.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

SUMMARY OF PROPOSED RULES: WSDA pesticide management division is proposing to amend chapter 16-232 WAC in order to restrict the use of two insecticides in the Grayland cranberry growing area to prevent water contamination.

The Grayland cranberry growers instituted BMPs contained in this rule proposal, voluntarily over the last fifteen years. Most growers, eighty-five percent or more, have already completed the work necessary to comply with this rule. This rule only intends to require the BMPs to all growers, thus creating a fair playing field and preventing further contamination of waterways in Grayland. Continued or greater contamination of waterways in Grayland with these or other pesticides could result in a much greater cost to this industry and their growers through clean up costs and more aggressive restrictions on pesticide use in this area. Further restrictions on this industry could end cranberry growing in this area. The intent of these BMPs is to prevent the further contamination and prevent further more expensive restrictions to growers and the cranberry industry.

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- Requiring cribbing and covering of ditches adjacent to cranberry beds in the Grayland area.
- Requiring protection of source water when chemigating cranberry beds with chlorpyrifos and diazinon.

SMALL BUSINESS ECONOMIC IMPACT STATEMENT (SBEIS): Chapter 19.85 RCW, the Regulatory Fairness Act, requires an analysis of the economic impact proposed rules will have on regulated businesses. Preparation of an SBEIS is required when proposed rules will impose more than minor costs on businesses.

"Minor cost" means a cost that is less than one percent of annual payroll or the greater of either 0.3 percent of annual revenue or $100.

"Small business" means any business entity that is owned and operated independently from all other businesses and has fifty or fewer employees.

INDUSTRY ANALYSIS: The proposed rule impacts cranberry growers in Grayland, Washington. WSDA has analyzed the proposed rule amendments and has determined that costs are more than minor on regulated businesses.

INVOLVEMENT OF SMALL BUSINESSES: This rule has been a cooperative effort from the beginning. The industry requested this rule to get all growers on board with protecting the waterways in Grayland from pesticide impacts. The department has been working and meeting with the Grayland Grower Cranberry Board on this rule since 2009. Small businesses have been involved in writing the proposed rules and in providing the department with the expected costs associated with the changes. The growers requested this rule to require all growers to comply with Natural Resource and Conservation Service (NRCS) standards already being instituted by most growers. The need for all growers in the area to crib and cover their ditches is essential to clean up their waterways. Two ditches in Grayland are currently listed for the contaminants diazinon and chlorpyrifos on department of ecology's (DOE) 303(d) list. The Grayland cranberry growers chemigate (apply pesticides through their chemigation

systems). The goal of this rule is to clean up these waterways and prevent further contamination by chlorpyrifos and diazinon.

We met with the Grayland Grower Cranberry Board approximately once per quarter until a draft rule was formulated. In the summer of 2010 we mailed a survey to all Grayland growers to ask about the costs to their industry and individual growers. We had a good response - approximately fifty percent of Grayland Growers returned the completed survey. We also have a 2005 cost analysis of cribbing and covering from WSU at the request of their industry that was done with the expectation of rule making to follow.

We then had to postpone rule-making efforts due to the Governor's Executive Order 10-06 moratorium on rule making. However, at the beginning of 2012 we received an exception to this executive order to proceed with the rule making to help protect the water in the Grayland area. Since January 2012, we have met with the board almost monthly to finalize the draft rule.

COST OF COMPLIANCE: RCW 19.85.040 directs agencies to analyze the costs of compliance for businesses required to comply with the proposed rule. Growers will have three choices after this rule is implemented and each choice involves different costs:

(1) Growers can install cribbing and covering over ditches/drains adjacent to their cranberry beds to protect the ditch.

- Survey results for estimated costs varied widely from growers who have yet to crib and cover their ditches and drains, from a low of $1.87 per lineal foot to $14.00 per lineal foot. The average cost, according to survey results, is $9.70 per lineal foot. This covers the cost of labor and materials.
- The 2005 WSU cost analysis found costs of cribbing and covering without cost sharing to be approximately $12.18 per lineal foot or $14,610 per 1200 feet of ditch, the average length of ditch in the Grayland area. Cost sharing for growers from United States Department of Agriculture (USDA) NRCS program will continue to be available to growers after this rule takes effect. The NRCS cost sharing program will greatly help reduce the economic impact to growers. The 2005 WSU cost analysis showed costs with cost sharing to be approximately $2.61 per lineal foot or $3,135 per 1200 feet of ditch average length of ditch in Grayland area). This would be a **reduction of** approximately $9.57 per foot and $11,000 total reduction for a 1200 foot ditch.

(2) Growers can bury their drains or build a culvert to protect the ditch.

- Survey results for approximate costs to install a culvert system also varied widely, from a low of $1.00 per lineal foot to a high of $8.00 per lineal foot. The total costs for this estimated in the 2005 WSU cost analysis was $5.14 per lineal foot or $6,168 total for 1200 feet of ditch. Cost sharing from USDA's NRCS program would reduce the economic impact to the growers installing a drain or culvert to $3.10 per lineal foot or $3,729 per 1200 feet of ditch. This would be a **reduction of** approximately $2.00 per lineal foot or $2,439 total for 1200 feet of ditch. This covers the cost of labor and materials.

(3) Growers can use alternate pesticides other than those restricted in this rule and build no covers or culverts for their ditches.

- The costs of using alternate pesticides other than those restricted in this rule are unknown. Alternate products may have a higher cost up front as they are newer chemistries; they also may have to be used more often. However, the amount used would be much smaller (likely ounces per acre versus pounds per acre of older chemistries) so it may equal out.
- There are no fees for inspections or services;
  no additional recordkeeping,
  no additional required reporting, and
  no loss of sales revenue, so growers will have no increased costs related to recordkeeping,
  reporting, inspections or sales due to this rule.

JOBS CREATED OR LOST: Under RCW 19.85.040, agencies must provide an estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rules. In collecting information from representative small businesses through the industry survey and focus group meetings the program estimates that **no jobs will be lost or created** a result of small businesses complying with the rules. Most of the industry has already cribbed and covered their ditches. Most growers do their own labor and very little acreage is still in need of cribbing and covering, less than fifteen percent. In addition, growers can choose to use other chemicals instead of the restricted chlorpyrifos and diazinon in this rule. In which case, there is no cost to the grower related to jobs or labor.

DISPROPORTIONATE IMPACT TO SMALL BUSINESSES: RCW 19.85.040 directs agencies to determine whether the proposed rule will have a disproportionate cost impact on small businesses by comparing the cost of compliance for small business with the cost of compliance for the ten percent of the largest businesses required to comply with the proposed rules.

The costs small businesses will incur to comply with the proposed rules **are not disproportionate** between small and large businesses. Costs will be comparable whether the business is small or large. The costs will be proportional to the size of the business: The larger the field, the bigger the business, the larger the cost; the smaller the field, the smaller the business, the smaller the cost.

CONCLUSION: To comply with chapter 19.85 RCW, the Regulatory Fairness Act, the WSDA's pesticide management division has analyzed the economic impact of the proposed rules on small businesses and determined that although some costs to small businesses are evident, they have been minimized through the many meetings with industry in the area, NRCS grant funding, the ability of growers to alternately use pesticides not restricted by this rule, and the very low percentage of growers that still need to finish cribbing and covering ditches voluntarily.

Please contact Robin Schoen-Nessa if you have any questions at (360) 902-2040 or e-mail at rschoen-nessa@agr.wa.gov.

A copy of the statement may be obtained by contacting Robin Schoen-Nessa, WSDA, 1111 Washington Street S.E., P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-2038, fax (360) 902-2093, e-mail rsnessa@agr.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. WSDA is not a listed agency under RCW 34.05.328 (5)(a)(i).

October 2, 2012
Ted Maxwell
Acting Assistant Director

NEW SECTION

WAC 16-232-400 What areas of Grays Harbor and Pacific counties are under order for use restricted pesticides? The area under order shall include all lands in Grays Harbor and Pacific counties lying within Township 15 North, Range 11 West, Sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32; Township 16 North, Range 11 West, Sections 19, 30, 31, and 32; and Township 16 North, Range 12 West, Sections 24 and 25.

NEW SECTION

WAC 16-232-410 What pesticides are restricted in the area under order? All formulations containing the active ingredient O,O-diethyl O-(3,5,6-trichloro-2-pyridinyl) phosphorothioate, commonly known as chlorpyrifos or the active ingredient O,O-diethyl O-(isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate, commonly known as diazinon are use restricted pesticides when applied to cranberries in the area under order.

NEW SECTION

WAC 16-232-420 What standards are adopted by WSDA? (1) The department adopts the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Practices Standards "Drainage Water Management" CODE 554 (Sept. 2011); "SubSurface Drain" CODE 606 (Sept. 2011); "Surface Drain, Main or Lateral" CODE 608 (Nov. 2010); and "Underground Outlet" CODE 620 (Nov. 2010) as requirements for and restrictions on the use of pesticides containing chlorpyrifos or diazinon when applied to cranberries in the area under order.

(2) Copies of the adopted USDA NRCS Practice Standards can be requested by mail from: U.S. Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250 or from your local NRCS Office or can be found on the WSDA web site at: http://www.agr.wa/gov/pestfert/.

NEW SECTION

WAC 16-232-430 What are the restrictions on the use of pesticides containing chlorpyrifos or diazinon for ditches? (1) Chlorpyrifos or diazinon shall not be applied to cranberries unless all ditches immediately adjacent to the application and all other ditches that will be contacted by the application are adequately protected to prevent entry of chlorpyrifos or diazinon at the time of application.

(2) For the purpose of subsection (1) of this section, "adequately protected" means:

(a) Ditches are cribbed and covered according to USDA NRCS Practice Standards "Drainage Water Management" CODE 554 (Sept. 2011); "SubSurface Drain" CODE 606 (Sept. 2011); "Surface Drain, Main or Lateral" CODE 608 (Nov. 2010); and "Underground Outlet" CODE 620 (Nov. 2010), or one of the functional equivalents below.

(i) A functional equivalent for ditch side walls is the installation of side walls with rigid material capable of maintaining ditch integrity for a period of no less than ten years.

(ii) A functional equivalent for ditch coverings is the installation of ditch coverings using rigid material capable of preventing entry of chlorpyrifos or diazinon either through chemigation activities or run-off from irrigation activities into ditches as described in subsection (1) of this section.

(b) Drainage culverts are installed and constructed according to USDA NRCS Practice Standard "Underground Outlet" CODE 620 (Nov. 2010).

(3) All ditches and culverts shall be maintained and kept in good repair as needed in order to achieve the requirements of subsection (1) of this section.

(4) Upon request, the department shall be provided with all available information related to the design, construction, and materials used to protect the ditch as described in subsection (2) of this section.

NEW SECTION

WAC 16-232-440 What are the restrictions on the use of pesticides containing chlorpyrifos or diazinon near source water? (1) All source water used for chemigation including, but not limited to, open reservoirs, ponds, or sumps must be protected from contact with chlorpyrifos or diazinon during an application unless the source water is demonstrated to have no hydraulic connection with drainage ditches or culverts.

(2) For the purpose of subsection (1) of this section, "hydraulic connection" means, water can flow between one source (either ground or surface water) to another source (either ground or surface water). Connection can be natural or manmade.

(3) For the purpose of subsection (1) of this section, "protected" means:

(a) Placement of a barrier or covering system over the source water in a manner that ensures spray from the nozzles do not contact the source water; or

(b) Design, placement, operation, and maintenance of irrigation sprayheads or nozzles in a manner that ensures spray from the nozzles does not contact the source water.

(4) Hydraulic connections will be determined as needed, by the department upon review of the source water system design.

NEW SECTION

WAC 16-232-450 Can a variance to the requirements of this order be obtained in an emergency? (1) In the event of an emergency, as determined by the director, the depart-

ment may issue permits for the use of chlorpyrifos or diazinon in the use restricted area in variation of any restrictions as defined in WAC 16-232-430 or 16-232-440. An emergency under this section may be declared if the director determines that the situation is:

(a) Urgent and unexpected; and

(b) The risk and amount of economic harm to the crop substantially outweighs the risk and amount of damage likely to occur to the environment if a variance permit is issued.

(2) Application for a permit may be made to compliance@agr.wa.gov or by mail, fax, or in person to the Washington State Department of Agriculture, Pesticide Management Division, 1111 Washington St. S.E., P.O. Box 42589, Olympia, WA 98504-2560, FAX: 360-902-2093. Permits will not be granted by telephone.

(3) The department may make on-site monitoring of the application a condition of any permit. A representative of the department may condition, deny, or revoke a permit at any time, if the representative determines that the situation at the application site creates an unreasonable risk. In determining whether the situation at the application site creates an unreasonable risk, the representative may consider all relevant factors such as temperature, tides, precipitation, application type, pesticide formulation and application equipment, ditch cover condition, endangered species restrictions, air inversions, time of day, burning restrictions, wind direction, wind velocity, topography, and type and condition of application equipment.

WSR 12-20-074
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Aging and Disability Services Administration)

[Filed October 3, 2012, 9:21 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-16-108.

Title of Rule and Other Identifying Information: WAC 388-106-0135 and 388-106-1305, personal care hours.

Hearing Location(s): Office Building 2, Lookout Room, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html), on November 6, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 7, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 6, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by October 15, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending rules to better enable children to challenge the department's authorization of personal care hours.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 74.08.090, 74.09.520.

Statute Being Implemented: RCW 74.08.090, 74.09.520.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Angel Sulivan, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2495.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The preparation of a small business economic impact statement is not required, as no new costs will be imposed on small businesses or nonprofits as a result of this rule amendment.

A cost-benefit analysis is not required under RCW 34.05.328. Rules are exempt per RCW 34.05.328 (5)(b)(v), rules the content of which is explicitly and specifically dictated by statute.

September 26, 2012
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-0135 What ((~~are~~)) is the maximum number of hours of personal care services that I can receive for in-home services? (1) Unless additional hours are awarded through an exception to rule per WAC 388-440-0001 or pursuant to subsection (2) of this section, the maximum number of hours that you may receive is the base hours assigned to your classification group and adjusted per WAC 388-106-0130. For chore program clients, the maximum personal care hours per month the department will ((~~pay~~)) authorize is one hundred sixteen.

(2) If you are under age twenty-one, you may receive additional hours of personal care services if you show that the number of hours authorized by the department is less than the amount required to enable you to meet identified needs for assistance with personal care tasks. In order to show that the hours are insufficient, you must:

(a) Specify the ADLs or IADLS for which you will not receive sufficient assistance.

(b) Provide documentation of your needs from a licensed physician with expertise in the assessment of personal care needs or registered nurse with expertise in the assessment of personal care needs. Such documentation must:

(i) Be based on a professionally recognized personal care assessment instrument; and

(ii) Specify the number of additional hours of personal care services that are necessary to assist you with each ADL and IADL for which you need assistance.

(c) Provide an explanation of why informal supports are unavailable to provide the additional assistance.

(i) When you are living with your legally responsible parents, the considerations described in WAC 388-106-0130 (8)(d) apply to the determination of availability of informal supports.

AMENDATORY SECTION (Amending WSR 05-11-082, filed 5/17/05, effective 6/17/05)

WAC 388-106-1305 What if I disagree with the result of the CARE assessment and/or other eligibility decisions made by the department? (1) You have a right to an administrative hearing to contest the ((~~result~~)) accuracy of your CARE assessment and/or other eligibility decisions made by the department under this chapter. ((~~The department will notify you in writing of the right to contest a decision and provide you with information on how to request a hearing.~~))

(2) If you are under age twenty-one, you have a right to contest the number of personal care hours authorized pursuant to WAC 388-106-0135(2). If you are age twenty-one years or older, you do not have a right to a hearing to contest the maximum level of personal care services available to you under these rules.

(3) The department will notify you in writing of the right to contest the accuracy of your CARE assessment or other eligibility decisions, and provide you with information on how to request a hearing.

WSR 12-20-075
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed October 3, 2012, 9:26 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-07-035.

Title of Rule and Other Identifying Information: The department is proposing to amend the following rules to implement annual adjustments to standards for the Washington Basic Food program: WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?, 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food?, and 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food?

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on November 6, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 7, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, 115 [1115] Washington Street S.E., Olympia, WA 98504, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 6, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by October 15, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend:

- WAC 388-450-0185 to increase the Basic Food standard deductions.
- WAC 388-450-0190 to raise the Basic Food maximum shelter cost.
- WAC 388-478-0060 to increase the Basic Food maximum gross monthly income and maximum net monthly income; and to update the one hundred sixty-five percent poverty level income.

Reasons Supporting Proposal: The amendments update Basic Food standards for federal fiscal year 2013 to comply with requirements of the United States Department of Agriculture (USDA), Food and Nutrition Service (FNS), SNAP USDA memo dated August 6, 2012, subject: SNAP fiscal year 2013 cost-of-living adjustments (COLAs).

The department is making these changes via the emergency rule filing process, effective October 1, 2012. The department is concurrently working on the permanent rulemaking process and has filed a preproposal statement of inquiry, CR-101, as WSR 12-07-035 dated March 14, 2012.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090.

Statute Being Implemented: RCW 74.04.005, 74.04.-050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090.

Rule is necessary because of federal law, SNAP Administrative Notice 12-28 SNAP - Fiscal Year (FY) 2013 Cost-of-Living Adjustments (COLAs) dated August 6, 2012.

Name of Proponent: Department of social and health services.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Holly St. John, community services division, (360) 725-4895.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to … rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

October 1, 2012
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-24-027, filed 12/1/11, effective 1/1/12)

WAC 388-450-0185 What income deductions does the department allow when determining if I am eligible for food benefits and the amount of my monthly benefits?

We determine if your assistance unit (AU) is eligible for Basic Food and calculate your monthly benefits according to requirements of the Food and Nutrition Act of 2008 and federal regulations related to the supplemental nutrition assistance program (SNAP).

These federal laws allow us to subtract **only** the following amounts from your AU's total monthly income to determine your countable monthly income under WAC 388-450-0162:

(1) A standard deduction based on the number of eligible people in your AU under WAC 388-408-0035:

Eligible AU members	Standard deduction
1	$((~~147~~)) 149
2	$((~~147~~)) 149
3	$((~~147~~)) 149
4	$((~~155~~)) 160
5	$((~~181~~)) 187
6 or more	$((~~208~~)) 214

(2) Twenty percent of your AU's gross earned income (earned income deduction);

(3) Your AU's expected monthly dependent care expense needed for an AU member to:

(a) Keep work, look for work, or accept work;

(b) Attend training or education to prepare for employment; or

(c) Meet employment and training requirements under chapter 388-444 WAC.

(4) Medical expenses over thirty-five dollars a month owed or anticipated by an elderly or disabled person in your AU as allowed under WAC 388-450-0200.

(5) A portion of your shelter costs as described in WAC 388-450-0190.

AMENDATORY SECTION (Amending WSR 11-24-027, filed 12/1/11, effective 1/1/12)

WAC 388-450-0190 How does the department figure my shelter cost income deduction for Basic Food? The department calculates your shelter cost income deduction as follows:

(1) First, we add up the amounts your assistance unit (AU) must pay each month for shelter. We do not count any overdue amounts, late fees, penalties or mortgage payments you make ahead of time as an allowable cost. We count the following expenses as an allowable shelter cost in the month the expense is due:

(a) Monthly rent, lease, and mortgage payments;

(b) Property taxes;

(c) Homeowner's association or condo fees;

(d) Homeowner's insurance for the building only;

(e) Utility allowance your AU is eligible for under WAC 388-450-0195;

(f) Out-of-pocket repairs for the home if it was substantially damaged or destroyed due to a natural disaster such as a fire or flood;

(g) Expense of a temporarily unoccupied home because of employment, training away from the home, illness, or abandonment caused by a natural disaster or casualty loss if your:

(i) AU intends to return to the home;

(ii) AU has current occupants who are not claiming the shelter costs for Basic Food purposes; and

(iii) AU's home is not being leased or rented during your AU's absence.

(2) Second, we subtract all deductions your AU is eligible for under WAC 388-450-0185 (1) through (5) from your AU's gross income. The result is your AU's net income.

(3) Finally, we subtract one-half of your AU's net income from your AU's total shelter costs. The result is your excess shelter costs. Your AU's shelter cost deduction is the excess shelter costs:

(a) Up to a maximum of four hundred ((~~fifty-nine~~)) sixty-nine dollars if no one in your AU is elderly or disabled; or

(b) The entire amount if an eligible person in your AU is elderly or disabled, even if the amount is over four hundred ((~~fifty-nine~~)) sixty-nine dollars.

AMENDATORY SECTION (Amending WSR 11-24-027, filed 12/1/11, effective 1/1/12)

WAC 388-478-0060 What are the income limits and maximum benefit amounts for Basic Food? If your assistance unit (AU) meets all other eligibility requirements for Basic Food, your AU must have income at or below the limits in column B and C to get Basic Food, unless you meet one of the exceptions listed below. The maximum monthly food assistance benefit your AU could receive is listed in column D.

EFFECTIVE ((~~10-1-2011~~)) 10-1-2012

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
1	$((~~1,180~~)) 1,211	$((~~908~~)) 931	$200	$((~~1,498~~)) 1,536
2	((~~1,594~~)) 1,640	((~~1,226~~)) 1,261	367	((~~2,023~~)) 2,081
3	((~~2,008~~)) 2,069	((~~1,545~~)) 1,591	526	((~~2,548~~)) 2,625

Column A Number of Eligible AU Members	Column B Maximum Gross Monthly Income	Column C Maximum Net Monthly Income	Column D Maximum Allotment	Column E 165% of Poverty Level
4	((~~2,422~~)) 2,498	((~~1,863~~)) 1,921	668	((~~3,074~~)) 3,170
5	((~~2,836~~)) 2,927	((~~2,181~~)) 2,251	793	((~~3,599~~)) 3,714
6	((~~3,249~~)) 3,356	((~~2,500~~)) 2,581	952	((~~4,124~~)) 4,259
7	((~~3,663~~)) 3,785	((~~2,818~~)) 2,911	1,052	((~~4,649~~)) 4,803
8	((~~4,077~~)) 4,214	((~~3,136~~)) 3,241	1,202	((~~5,175~~)) 5,348
9	((~~4,491~~)) 4,643	((~~3,455~~)) 3,571	1,352	((~~5,701~~)) 5,893
10	((~~4,905~~)) 5,072	((~~3,744~~)) 3,901	1,502	((~~6,227~~)) 6,438
Each Additional Member	+((~~414~~)) 429	+((~~319~~)) 330	+150	+((~~526~~)) 545

Exceptions:

(1) If your AU is categorically eligible as under WAC 388-414-0001, your AU does not have to meet the gross or net income standards in columns B and C. We do budget your AU's income to decide the amount of Basic Food your AU will receive.

(2) If your AU includes a member who is sixty years of age or older or has a disability, your income must be at or below the limit in column C only.

(3) If you are sixty years of age or older and cannot buy and cook your own meals because of a permanent disability, we will use column E to decide if you can be a separate AU.

(4) If your AU has zero income, your benefits are the maximum allotment in column D, based on the number of eligible members in your AU.

WSR 12-20-077
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed October 3, 2012, 9:30 a.m.]

Supplemental Notice to WSR 11-22-100.

Preproposal statement of inquiry was filed as WSR 11-17-137.

Title of Rule and Other Identifying Information: The department is proposing to add a new chapter in Title 388 WAC necessary to comply with the requirements in RCW 74.08A.040 to enact rules covering at a minimum the appropriate uses of state maintenance of effort (MOE) funds and annual reports on program operations by tribal TANF programs.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html or by calling (360) 664-6094), on November 6, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than November 7, 2012.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, 115 [1115] Washington Street S.E., Olympia, WA 98504, e-mail DSHS RPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on November 6, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by October 15, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: It is necessary to adopt these rules so the department and the eligible tribes within Washington state upon approval of a tribal TANF program by the secretary of the federal Department of Health and Human Services have a clear understanding of what is required.

Reasons Supporting Proposal: The rule making is necessary to comply with RCW 74.08A.040.

Statutory Authority for Adoption: RCW 74.08A.040.

Statute Being Implemented: RCW 74.08A.040.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Mowrey, P.O. Box 45857, Olympia, WA 98504-5857, (360) 725-4656.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules do not have an economic impact on small businesses. The proposed rule making relates to requirements a tribal TANF program must follow concerning the appropriate uses of state

MOE funds and annual reports on program operations by tribal TANF programs.

A cost-benefit analysis is not required under RCW 34.05.328. The rules are exempt as provided under RCW 34.05.328 (5)(b)(v) which states: "Rules the content of which is explicitly and specifically dictated by statute."

September 26, 2012
Katherine I. Vasquez
Rules Coordinator

NEW SECTION

WAC 388-315-1000 Tribal TANF—Overview—Why do we have state rules regarding tribal temporary assistance for needy families program and state maintenance of effort funds? (1) Under RCW 74.08A.040, the department of social and health services is required to adopt rules regarding state maintenance of effort and reporting requirements for tribal TANF programs.

(2) When statutorily required to adopt rules, the department must enact regulations in the Washington Administrative Code consistent with the Administrative Procedures Act.

(3) The department is adopting these rules so that everyone has an understanding of what is required.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-315-1050 Tribal TANF—Overview—What is state maintenance of effort? State maintenance of effort is a federal TANF requirement that a state shall spend at least a specified amount, as required by 45 CFR 263.1, of state funds for benefits and services for members of needy families each year. A broad, but not unlimited, array of benefits and services for low-income families with children can count toward satisfying a state's maintenance of effort obligation.

NEW SECTION

WAC 388-315-1100 Tribal TANF—Overview—Do tribal TANF programs receive state maintenance of effort funds? Yes. A tribe or a consortium of tribes may elect to operate a tribal TANF program under 45 CFR 286. Per RCW 74.08A.040, the department shall transfer a fair and equitable amount of the TANF state maintenance of effort funds to eligible tribes, or consortium of tribes, within Washington State upon approval of a tribal TANF program by the secretary of the federal department of health and human services.

NEW SECTION

WAC 388-315-1150 Tribal TANF—Overview—What agreements does the state establish with a tribe or consortium of tribes prior to distribution of state maintenance of effort funding for a tribal TANF program? In making an allocation of state maintenance of effort funding to a tribe or consortium of tribes for a tribal TANF program, the department shall ensure that the following mutually agreed upon agreements are in place:

(1) Intergovernmental TANF agreement;

(2) Data share agreement; and

(3) Operational agreement.

NEW SECTION

WAC 388-315-2050 Tribal TANF—State maintenance of effort requirements—What is considered an allowable use of state maintenance of effort funds? State maintenance of effort funds for tribal TANF programs may be used as follows:

(1) The funds may be used in a flexible manner that meets the needs of their service population within the four purposes of the TANF program, as set forth in 45 CFR 260.20; and

(2) The funds may be used in any manner that meets federal requirements, as set forth in federal law, regulation and guidance, for an allowable use of funds that counts toward state maintenance of effort; and

(3) The funds must be spent on an eligible family, in accordance with 45 CFR 263.2(b) and federal guidance. For the purposes of a tribal TANF program's state maintenance of effort expenditures, an eligible family can include anyone defined in a tribal TANF program's federally approved tribal family assistance plan.

NEW SECTION

WAC 388-315-3000 Tribal TANF—Reporting requirements—What are the tribal TANF reporting requirements? The department shall require quarterly reports that are specified in the intergovernmental TANF agreement. The reports shall provide program data in the following areas:

(1) State maintenance of effort expenditure information;

(2) Caseload information; and

(3) Performance measures as identified by the tribe or consortium of tribes.

WSR 12-20-079
PROPOSED RULES
BOARD OF PILOTAGE COMMISSIONERS

[Filed October 3, 2012, 9:43 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district.

Hearing Location(s): 2901 Third Avenue, 5th Floor, Alki Conference Room, Seattle, WA 98121, on November 15, 2012, at 9:30 a.m.

Date of Intended Adoption: November 15, 2012.

Submit Written Comments to: Captain Harry Dudley, Chairman, 2901 Third Avenue, Suite 500, Seattle, WA

98121, e-mail larsonp@wsdot.wa.gov, fax (206) 515-3906, by November 6, 2012.

Assistance for Persons with Disabilities: Contact Shawna Erickson by November 12, 2012, (206) 515-3647.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to set a Puget Sound pilotage district annual tariff for the calendar year 2013.

The proposed rule reflects (1) a new tariff category and (2) a range of across-the-board tariff adjustments excluding the *training surcharge* category and the *transportation to vessels on Puget Sound* category. Both methods of establishing a tariff, which may be combined, are shown in the proposal in order to depict what options the board will be considering.

(1) The board will consider a new tariff category proposed by Puget Sound pilots (PSP) called the *variable expense component* (VEC). PSP is proposing a VEC charge to be levied by way of one or more charges up to the following amounts:

a. Surcharge of seventeen percent of the total other charges in the tariff;

b. Per assignment charge of $865;

c. Draft charge of $26.33 per foot;

d. Tonnage charge of $.0172 per gross ton;

e. LOA charge of $1.09 per foot;

f. Beam charge of $7.55 per foot;

g. Waterway charge of $728.56. (This would cover training and technology costs only.)

The Pacific Merchant Shipping Association (PMSA) is opposed to the addition of this new category of line items. The board will consider from $0.00 for each proposed charge (thus not creating a new category) up to the above amounts.

(2) The board will consider an overall range of tariff adjustments between a decrease of ten percent and an increase of fifteen percent. The low end of the range is proposed by the PMSA and the high end of the range is proposed by the PSP. The fifteen percent sought by PSP may be made up of across-the-board adjustments to the tariff and any or all of the VEC charges enumerated above. In total, PSP is not seeking increases in excess of the overall fifteen percent range.

Also, the board will consider an adjustment to the transportation charge portions of the *British Columbia direct transit charge*. PMSA proposes a ten percent decrease. PSP proposes a 5.5 percent increase. The range being considered is between a decrease of ten percent and an increase of 5.5 percent.

Reasons Supporting Proposal: Major stakeholders have contributed to the development of this proposal.

Statutory Authority for Adoption: Chapter 88.16 RCW.

Statute Being Implemented: RCW 88.16.035.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Current rates for the Puget Sound pilotage district expire on December 31, 2012. New rates must be set annually.

The board may adopt a rule that varies from the proposed rule upon consideration of written and oral testimony; this includes the adoption of a rule reflecting no changes to the current tariff.

Name of Proponent: PSP and PMSA, private.

Name of Agency Personnel Responsible for Drafting: Peggy Larson, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904; Implementation and Enforcement: Board of Pilotage Commissioners, 2901 Third Avenue, Seattle, WA 98121, (206) 515-3904.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule is being considered in the context of the required annual review of the rates charged for pilotage services.

The application of the proposed revisions is clear in the description of the proposal and its anticipated effects as well as the attached proposed tariff.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to the adoption of these rules. The Washington state board of pilotage commissioners is not a listed agency in RCW 34.05.328 (5)(a)(i).

October 2, 2012
Peggy Larson
Executive Director

AMENDATORY SECTION (Amending WSR 11-23-176, filed 11/23/11, effective 1/1/12)

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. Effective 0001 hours January 1, ((~~2012~~)) 2013, through 2400 hours December 31, ((~~2012~~)) 2013.

CLASSIFICATION	RATE
Ship length overall (LOA)	
Charges:	
Per LOA rate schedule in this section.	
Boarding charge:	$((~~48.00~~)) 43.00 to 55.00
Per each boarding/deboarding at the Port Angeles pilot station.	
Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Towing charge - Dead ship:	Double LOA Zone
LOA of tug + LOA of tow + beam of tow	

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Compass Adjustment	$((~~349.00~~)) 314.00 to 401.00
Radio Direction Finder Calibration	$((~~349.00~~)) 314.00 to 401.00
Launching Vessels	$((~~524.00~~)) 472.00 to 603.00
Trial Trips, 6 hours or less (minimum $((~~984.00~~)) 888.00 to 1,134.00)	$((~~164.00~~)) 148.00 to 189.00 per hour
Trial Trips, over 6 hours (two pilots)	$((~~328.00~~)) 295.00 to 377.00 per hour
Shilshole Bay – Salmon Bay	$((~~205.00~~)) 185.00 to 236.00
Salmon Bay – Lake Union	$((~~159.00~~)) 143.00 to 183.00
Lake Union – Lake Washington (plus LOA zone from Webster Point)	$((~~205.00~~)) 185.00 to 236.00
Cancellation Charge	LOA Zone I
Cancellation Charge – Port Angeles:	LOA Zone II
(When a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for a pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.)	

Waterway and Bridge Charges:
Ships up to 90' beam:
A charge of $((~~258.00~~)) 232.00 to 297.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of $((~~123.00~~)) 111.00 to 141.00 per bridge.

Ships 90' beam and/or over:
A charge of $((~~350.00~~)) 315.00 to 403.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of $((~~244.00~~)) 220.00 to 281.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:
In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Docking Delay After Anchoring:
Applicable harbor shift rate to apply, plus $((~~266.00~~)) 239.00 to 306.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is $((~~266.00~~)) 239.00 to 306.00 for every hour or fraction thereof.

Sailing Delay:
No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is $((~~266.00~~)) 239.00 to 306.00 for every hour or fraction thereof. The assessment of the standby charge shall not exceed a period of twelve hours in any twenty-four-hour period.

Slowdown:
When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of $((~~266.00~~)) 239.00 to 306.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Delayed Arrival – Port Angeles:
When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of $((~~266.00~~)) 239.00 to 306.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Tonnage Charges:
0 to 20,000 gross tons:
Additional charge to LOA zone mileage of $((~~0.0082~~)) 0.0074 to 0.0094 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:
Additional charge to LOA zone mileage of $((~~0.0846~~)) 0.0761 to 0.0973 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:
In excess of 50,000 gross tons, the charge shall be $((~~0.1012~~)) 0.0911 to 0.1164 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Transportation to Vessels on Puget Sound:

March Point or Anacortes	$195.00

Bangor	190.00
Bellingham	225.00
Bremerton	167.50
Cherry Point	260.00
Dupont	120.00
Edmonds	42.50
Everett	72.50
Ferndale	247.50
Manchester	162.50
Mukilteo	65.00
Olympia	155.00
Point Wells	42.50
Port Gamble	230.00
Port Townsend (Indian Island)	277.50
Seattle	18.75
Tacoma	87.50

(a) Intraharbor transportation for the Port Angeles port area: Transportation between Port Angeles pilot station and Port Angeles harbor docks - $15.00.

(b) Interport shifts: Transportation paid to and from both points.

(c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is canceled on or before scheduled reporting time, transportation paid one way only.

(d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x $2.00 per mile.

Delinquent Payment Charge:
1 1/2% per month after 30 days from first billing.

Nonuse of Pilots:
Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage charges on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

British Columbia Direct Transit Charge:
In the event that a pilot consents to board or deboard a vessel at a British Columbia port, which consent shall not unreasonably be withheld, the following additional charges shall apply in addition to the normal LOA, tonnage and other charges provided in this tariff that apply to the portion of the transit in U.S. waters:

Direct Transit Charge	$((~~2,107.00~~)) 1,896.00 to 2,223.00
Sailing Delay Charge. Shall be levied for each hour or fraction thereof that the vessel departure is delayed beyond its scheduled departure from a British Columbia port, provided that no charge will be levied for delays of one hour or less and further provided that the charge shall not exceed a period of 12 hours in any 24 hour period.	$((~~283.00~~)) 255.00 to 299.00 per hour
Slow Down Charge. Shall be levied for each hour or fraction thereof that a vessel's arrival at a U.S. or BC port is delayed when a vessel chooses not to maintain its normal safe speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater from the arrival time had the vessel maintained its normal safe speed capabilities.	$((~~283.00~~)) 255.00 to 299.00 per hour
Cancellation Charge. Shall be levied when a pilot arrives at a vessel for departure from a British Columbia port and the job is canceled. The charge is in addition to the applicable direct transit charge, standby, transportation and expenses.	$((~~525.00~~)) 473.00 to 554.00
Transportation Charge Vancouver Area. Vessels departing or arriving at ports in the Vancouver-Victoria-New Westminster Range of British Columbia.	$((~~499.00~~)) 449.00 to 526.00
Transportation Charge Outports. Vessels departing or arriving at British Columbia ports other than those in the Vancouver-Victoria-New Westminster Range.	$((~~630.00~~)) 567.00 to 665.00

Variable Expense Component:

(a) Surcharge of 0.00% to 17.00% of the total other charges in the tariff;

(b) Per assignment charge of $0.00 to $865.00;

(c) Draft charge of $0.00 to $26.33 per foot;

(d) Tonnage charge of $0.0000 to $0.0172 per gross ton;

(e) LOA charge of $0.00 to $1.09 per foot;

(f) Beam charge of $0.00 to $7.55 per foot;

(g) Waterway charge of $0.00 to $728.56. (This would cover training and technology costs only.)

Training Surcharge:
On January 1, 2011, a surcharge of $15.00 for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each pilotage assignment.

LOA Rate Schedule:
The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

((~~LOA~~ ~~(Length Overall)~~	~~ZONE I Intra Harbor~~	~~ZONE II 0-30 Miles~~	~~ZONE III 31-50 Miles~~	~~ZONE IV 51-75 Miles~~	~~ZONE V 76-100 Miles~~	~~ZONE VI 101 Miles & Over~~
~~UP to 449~~	~~255~~	~~396~~	~~675~~	~~1,006~~	~~1,354~~	~~1,757~~
~~450 - 459~~	~~266~~	~~403~~	~~679~~	~~1,021~~	~~1,376~~	~~1,766~~
~~460 - 469~~	~~268~~	~~407~~	~~690~~	~~1,038~~	~~1,395~~	~~1,774~~
~~470 - 479~~	~~277~~	~~419~~	~~698~~	~~1,059~~	~~1,399~~	~~1,777~~
~~480 - 489~~	~~285~~	~~426~~	~~701~~	~~1,078~~	~~1,408~~	~~1,785~~
~~490 - 499~~	~~289~~	~~432~~	~~712~~	~~1,098~~	~~1,424~~	~~1,794~~
~~500 - 509~~	~~304~~	~~440~~	~~722~~	~~1,110~~	~~1,436~~	~~1,805~~
~~510 - 519~~	~~306~~	~~448~~	~~729~~	~~1,127~~	~~1,451~~	~~1,812~~
~~520 - 529~~	~~310~~	~~464~~	~~740~~	~~1,132~~	~~1,464~~	~~1,826~~
~~530 - 539~~	~~319~~	~~470~~	~~749~~	~~1,145~~	~~1,487~~	~~1,847~~
~~540 - 549~~	~~324~~	~~476~~	~~766~~	~~1,157~~	~~1,510~~	~~1,864~~
~~550 - 559~~	~~331~~	~~492~~	~~771~~	~~1,174~~	~~1,522~~	~~1,882~~
~~560 - 569~~	~~343~~	~~512~~	~~786~~	~~1,185~~	~~1,536~~	~~1,899~~
~~570 - 579~~	~~350~~	~~516~~	~~789~~	~~1,190~~	~~1,552~~	~~1,912~~
~~580 - 589~~	~~365~~	~~524~~	~~808~~	~~1,199~~	~~1,561~~	~~1,931~~
~~590 - 599~~	~~382~~	~~536~~	~~813~~	~~1,205~~	~~1,584~~	~~1,954~~
~~600 - 609~~	~~396~~	~~552~~	~~824~~	~~1,209~~	~~1,604~~	~~1,963~~
~~610 - 619~~	~~418~~	~~557~~	~~838~~	~~1,214~~	~~1,619~~	~~1,981~~
~~620 - 629~~	~~434~~	~~564~~	~~846~~	~~1,229~~	~~1,638~~	~~2,004~~
~~630 - 639~~	~~454~~	~~574~~	~~855~~	~~1,232~~	~~1,652~~	~~2,021~~
~~640 - 649~~	~~472~~	~~587~~	~~864~~	~~1,234~~	~~1,666~~	~~2,036~~
~~650 - 659~~	~~505~~	~~597~~	~~880~~	~~1,244~~	~~1,686~~	~~2,057~~
~~660 - 669~~	~~515~~	~~605~~	~~887~~	~~1,251~~	~~1,705~~	~~2,073~~
~~670 - 679~~	~~534~~	~~620~~	~~896~~	~~1,274~~	~~1,724~~	~~2,086~~
~~680 - 689~~	~~541~~	~~630~~	~~908~~	~~1,284~~	~~1,739~~	~~2,106~~
~~690 - 699~~	~~557~~	~~640~~	~~922~~	~~1,307~~	~~1,757~~	~~2,150~~
~~700 - 719~~	~~582~~	~~661~~	~~939~~	~~1,324~~	~~1,791~~	~~2,174~~
~~720 - 739~~	~~616~~	~~679~~	~~963~~	~~1,342~~	~~1,826~~	~~2,210~~
~~740 - 759~~	~~640~~	~~712~~	~~982~~	~~1,354~~	~~1,864~~	~~2,250~~
~~760 - 779~~	~~665~~	~~734~~	~~1,006~~	~~1,376~~	~~1,899~~	~~2,279~~
~~780 - 799~~	~~698~~	~~767~~	~~1,021~~	~~1,395~~	~~1,931~~	~~2,320~~
~~800 - 819~~	~~726~~	~~789~~	~~1,041~~	~~1,402~~	~~1,963~~	~~2,355~~
~~820 - 839~~	~~749~~	~~818~~	~~1,065~~	~~1,424~~	~~2,004~~	~~2,382~~
~~840 - 859~~	~~781~~	~~851~~	~~1,086~~	~~1,441~~	~~2,034~~	~~2,423~~
~~860 - 879~~	~~810~~	~~880~~	~~1,105~~	~~1,478~~	~~2,073~~	~~2,458~~
~~880 - 899~~	~~838~~	~~905~~	~~1,127~~	~~1,512~~	~~2,106~~	~~2,494~~
~~900 - 919~~	~~863~~	~~935~~	~~1,146~~	~~1,551~~	~~2,150~~	~~2,528~~
~~920 - 939~~	~~890~~	~~963~~	~~1,174~~	~~1,584~~	~~2,172~~	~~2,563~~
~~940 - 959~~	~~922~~	~~988~~	~~1,191~~	~~1,619~~	~~2,210~~	~~2,594~~
~~960 - 979~~	~~943~~	~~1,017~~	~~1,212~~	~~1,652~~	~~2,250~~	~~2,633~~
~~980 - 999~~	~~974~~	~~1,041~~	~~1,233~~	~~1,686~~	~~2,279~~	~~2,667~~
~~1000 - 1019~~	~~1,034~~	~~1,108~~	~~1,288~~	~~1,776~~	~~2,387~~	~~2,782~~
~~1020 - 1039~~	~~1,062~~	~~1,141~~	~~1,328~~	~~1,826~~	~~2,459~~	~~2,863~~
~~1040 - 1059~~	~~1,094~~	~~1,169~~	~~1,367~~	~~1,882~~	~~2,529~~	~~2,948~~

((~~LOA~~ ~~(Length Overall)~~

~~ZONE I Intra Harbor~~	~~ZONE II 0-30 Miles~~	~~ZONE III 31-50 Miles~~	~~ZONE IV 51-75 Miles~~	~~ZONE V 76-100 Miles~~	~~ZONE VI 101 Miles & Over~~
~~1060 - 1079~~	~~1,127~~	~~1,210~~	~~1,407~~	~~1,938~~	~~2,608~~	~~3,035~~
~~1080 - 1099~~	~~1,161~~	~~1,244~~	~~1,448~~	~~1,994~~	~~2,684~~	~~3,127~~
~~1100 - 1119~~	~~1,194~~	~~1,282~~	~~1,492~~	~~2,056~~	~~2,765~~	~~3,221~~
~~1120 - 1139~~	~~1,231~~	~~1,323~~	~~1,538~~	~~2,116~~	~~2,848~~	~~3,317~~
~~1140 - 1159~~	~~1,266~~	~~1,360~~	~~1,582~~	~~2,179~~	~~2,934~~	~~3,418~~
~~1160 - 1179~~	~~1,304~~	~~1,399~~	~~1,632~~	~~2,245~~	~~3,021~~	~~3,518~~
~~1180 - 1199~~	~~1,344~~	~~1,442~~	~~1,679~~	~~2,312~~	~~3,113~~	~~3,625~~
~~1200 - 1219~~	~~1,385~~	~~1,485~~	~~1,728~~	~~2,382~~	~~3,206~~	~~3,732~~
~~1220 - 1239~~	~~1,424~~	~~1,530~~	~~1,779~~	~~2,453~~	~~3,300~~	~~3,844~~
~~1240 - 1259~~	~~1,467~~	~~1,575~~	~~1,831~~	~~2,526~~	~~3,400~~	~~3,958~~
~~1260 - 1279~~	~~1,510~~	~~1,621~~	~~1,887~~	~~2,602~~	~~3,503~~	~~4,077~~
~~1280 - 1299~~	~~1,555~~	~~1,671~~	~~1,945~~	~~2,680~~	~~3,605~~	~~4,200~~
~~1300 - 1319~~	~~1,603~~	~~1,718~~	~~2,001~~	~~2,759~~	~~3,714~~	~~4,324~~
~~1320 - 1339~~	~~1,651~~	~~1,771~~	~~2,063~~	~~2,842~~	~~3,824~~	~~4,455~~
~~1340 - 1359~~	~~1,698~~	~~1,824~~	~~2,124~~	~~2,926~~	~~3,939~~	~~4,589~~
~~1360 - 1379~~	~~1,750~~	~~1,877~~	~~2,187~~	~~3,016~~	~~4,055~~	~~4,724~~
~~1380 - 1399~~	~~1,801~~	~~1,933~~	~~2,254~~	~~3,104~~	~~4,178~~	~~4,868~~
~~1400 - 1419~~	~~1,856~~	~~1,992~~	~~2,319~~	~~3,196~~	~~4,302~~	~~5,013~~
~~1420 - 1439~~	~~1,911~~	~~2,052~~	~~2,389~~	~~3,293~~	~~4,433~~	~~5,163~~
~~1440 - 1459~~	~~1,970~~	~~2,114~~	~~2,462~~	~~3,391~~	~~4,565~~	~~5,317~~
~~1460 - 1479~~	~~2,025~~	~~2,175~~	~~2,534~~	~~3,492~~	~~4,702~~	~~5,474~~
~~1480 - 1499~~	~~2,087~~	~~2,240~~	~~2,609~~	~~3,596~~	~~4,841~~	~~5,639~~
~~1500 & Over~~	~~2,150~~	~~2,308~~	~~2,686~~	~~3,706~~	~~4,985~~	~~5,807~~))

LOA (Length Overall)	ZONE I Intra Harbor		ZONE II 0-30 Miles		ZONE III 31-50 Miles		ZONE IV 51-75 Miles		ZONE V 76-100 Miles		ZONE VI 101 Miles & Over	
	Low	High	Low	High	Low	High	Low	High	Low	High	Low	High
UP to 449	230	293	356	455	608	776	905	1,157	1,219	1,557	1,581	2,021
450 - 459	239	306	363	463	611	781	919	1,174	1,238	1,582	1,589	2,031
460 - 469	241	308	366	468	621	794	934	1,194	1,256	1,604	1,597	2,040
470 - 479	249	319	377	482	628	803	953	1,218	1,259	1,609	1,599	2,044
480 - 489	257	328	383	490	631	806	970	1,240	1,267	1,619	1,607	2,053
490 - 499	260	332	389	497	641	819	988	1,263	1,282	1,638	1,615	2,063
500 - 509	274	350	396	506	650	830	999	1,277	1,292	1,651	1,625	2,076
510 - 519	275	352	403	515	656	838	1,014	1,296	1,306	1,669	1,631	2,084
520 - 529	279	357	418	534	666	851	1,019	1,302	1,318	1,684	1,643	2,100
530 - 539	287	367	423	541	674	861	1,031	1,317	1,338	1,710	1,662	2,124
540 - 549	292	373	428	547	689	881	1,041	1,331	1,359	1,737	1,678	2,144
550 - 559	298	381	443	566	694	887	1,057	1,350	1,370	1,750	1,694	2,164
560 - 569	309	394	461	589	707	904	1,067	1,363	1,382	1,766	1,709	2,184
570 - 579	315	403	462	590	710	907	1,071	1,369	1,397	1,785	1,721	2,199
580 - 589	329	420	472	603	727	929	1,079	1,379	1,405	1,795	1,738	2,221
590 - 599	344	439	482	616	732	935	1,085	1,386	1,426	1,822	1,759	2,247
600 - 609	356	455	470	600	742	948	1,088	1,390	1,444	1,845	1,767	2,257
610 - 619	376	481	501	641	754	964	1,093	1,396	1,457	1,862	1,783	2,278
620 - 629	391	499	508	649	761	973	1,106	1,413	1,474	1,884	1,804	2,305

LOA	ZONE I		ZONE II		ZONE III		ZONE IV		ZONE V		ZONE VI	
(Length Overall)	Intra Harbor		0-30 Miles		31-50 Miles		51-75 Miles		76-100 Miles		101 Miles & Over	
	Low	High	Low	High	Low	High	Low	High	Low	High	Low	High
630 - 639	409	522	517	660	770	983	1,109	1,417	1,487	1,900	1,819	2,324
640 - 649	425	543	528	675	778	994	1,111	1,419	1,499	1,916	1,832	2,341
650 - 659	455	581	537	687	792	1,012	1,120	1,431	1,517	1,939	1,851	2,366
660 - 669	464	592	545	696	798	1,020	1,126	1,439	1,535	1,961	1,866	2,384
670 - 679	481	614	558	713	806	1,030	1,147	1,465	1,552	1,983	1,877	2,399
680 - 689	487	622	567	725	817	1,044	1,156	1,477	1,565	2,000	1,895	2,422
690 - 699	501	641	576	736	830	1,060	1,176	1,503	1,581	2,021	1,935	2,473
700 - 719	524	669	595	760	845	1,080	1,192	1,523	1,612	2,060	1,957	2,500
720 - 739	554	708	611	781	867	1,107	1,208	1,543	1,643	2,100	1,989	2,542
740 - 759	576	736	641	819	884	1,129	1,219	1,557	1,678	2,144	2,025	2,588
760 - 779	599	765	661	844	905	1,157	1,238	1,582	1,709	2,184	2,051	2,621
780 - 799	628	803	690	882	919	1,174	1,256	1,604	1,738	2,221	2,088	2,668
800 - 819	653	835	710	907	937	1,197	1,262	1,612	1,767	2,257	2,120	2,708
820 - 839	674	861	736	941	959	1,225	1,282	1,638	1,804	2,305	2,144	2,739
840 - 859	703	898	766	979	977	1,249	1,297	1,657	1,831	2,339	2,181	2,786
860 - 879	729	932	792	1,012	995	1,271	1,330	1,700	1,866	2,384	2,212	2,827
880 - 899	754	964	815	1,041	1,014	1,296	1,361	1,739	1,895	2,422	2,245	2,868
900 - 919	777	992	842	1,075	1,031	1,318	1,396	1,784	1,935	2,473	2,275	2,907
920 - 939	801	1,024	867	1,107	1,057	1,350	1,426	1,822	1,955	2,498	2,307	2,947
940 - 959	830	1,060	889	1,136	1,072	1,370	1,457	1,862	1,989	2,542	2,335	2,983
960 - 979	849	1,084	915	1,170	1,091	1,394	1,487	1,900	2,025	2,588	2,370	3,028
980 - 999	877	1,120	937	1,197	1,110	1,418	1,517	1,939	2,051	2,621	2,400	3,067
1000 - 1019	931	1,189	997	1,274	1,159	1,481	1,598	2,042	2,148	2,745	2,504	3,199
1020 - 1039	956	1,221	1,027	1,312	1,195	1,527	1,643	2,100	2,213	2,828	2,577	3,292
1040 - 1059	985	1,258	1,052	1,344	1,230	1,572	1,694	2,164	2,276	2,908	2,653	3,390
1060 - 1079	1,014	1,296	1,089	1,392	1,266	1,618	1,744	2,229	2,347	2,999	2,732	3,490
1080 - 1099	1,045	1,335	1,120	1,431	1,303	1,665	1,795	2,293	2,416	3,087	2,814	3,596
1100 - 1119	1,075	1,373	1,154	1,474	1,343	1,716	1,850	2,364	2,489	3,180	2,899	3,704
1120 - 1139	1,108	1,416	1,191	1,521	1,384	1,769	1,904	2,433	2,563	3,275	2,985	3,815
1140 - 1159	1,139	1,456	1,224	1,564	1,424	1,819	1,961	2,506	2,641	3,374	3,076	3,931
1160 - 1179	1,174	1,500	1,259	1,609	1,469	1,877	2,021	2,582	2,719	3,474	3,166	4,046
1180 - 1199	1,210	1,546	1,298	1,658	1,511	1,931	2,081	2,659	2,802	3,580	3,263	4,169
1200 - 1219	1,247	1,593	1,337	1,708	1,555	1,987	2,144	2,739	2,885	3,687	3,359	4,292
1220 - 1239	1,282	1,638	1,377	1,760	1,601	2,046	2,208	2,821	2,970	3,795	3,460	4,421
1240 - 1259	1,320	1,687	1,418	1,811	1,648	2,106	2,273	2,905	3,060	3,910	3,562	4,552
1260 - 1279	1,359	1,737	1,459	1,864	1,698	2,170	2,342	2,992	3,153	4,028	3,669	4,689
1280 - 1299	1,400	1,788	1,504	1,922	1,751	2,237	2,412	3,082	3,245	4,146	3,780	4,830
1300 - 1319	1,443	1,843	1,546	1,976	1,801	2,301	2,483	3,173	3,343	4,271	3,892	4,973
1320 - 1339	1,486	1,899	1,594	2,037	1,857	2,372	2,558	3,268	3,442	4,398	4,010	5,123
1340 - 1359	1,528	1,953	1,642	2,098	1,912	2,443	2,633	3,365	3,545	4,530	4,130	5,277
1360 - 1379	1,575	2,013	1,689	2,159	1,968	2,515	2,714	3,468	3,650	4,663	4,252	5,433
1380 - 1399	1,621	2,071	1,740	2,223	2,029	2,592	2,794	3,570	3,760	4,805	4,381	5,598
1400 - 1419	1,670	2,134	1,793	2,291	2,087	2,667	2,876	3,675	3,872	4,947	4,512	5,765
1420 - 1439	1,720	2,198	1,847	2,360	2,150	2,747	2,964	3,787	3,990	5,098	4,647	5,937
1440 - 1459	1,773	2,266	1,903	2,431	2,216	2,831	3,052	3,900	4,109	5,250	4,785	6,115
1460 - 1479	1,823	2,329	1,958	2,501	2,281	2,914	3,143	4,016	4,232	5,407	4,927	6,295
1480 - 1499	1,878	2,400	2,016	2,576	2,348	3,000	3,236	4,135	4,357	5,567	5,075	6,485
1500 & Over	1,935	2,473	2,077	2,654	2,417	3,089	3,335	4,262	4,487	5,733	5,226	6,678

WSR 12-20-081
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed October 3, 2012, 10:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-12-014.

Title of Rule and Other Identifying Information: WAC 314-42-110 Brief adjudicative proceedings, 314-52-115 Preliminary record in brief adjudicatory proceedings, 314-52-120 Conduct of brief adjudicatory proceedings, 314-42-125 Brief adjudicatory proceedings conversion to formal adjudicatory proceedings, and 314-42-130 Appeal rights on brief adjudicatory proceedings initial order.

Hearing Location(s): Washington State Liquor Control Board (LCB), Board Room, 3000 Pacific Avenue S.E., Lacey, WA 98504, on November 7, 2012, at 10:00 a.m.

Date of Intended Adoption: November 14, 2012.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, e-mail rules@liq.wa.gov, fax (360) 664-9689, by November 7, 2012.

Assistance for Persons with Disabilities: Contact Karen McCall, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to authorize the utilization of brief adjudicatory proceedings (BAP) in accordance with RCW 34.05.-482 (1)(c). Creating a BAP process will give applicants and liquor licensees and [an] option to a full adjudicative hearing. This process could save time and resources for applicants and liquor licensees.

Reasons Supporting Proposal: ESSB 5921 passed in the 2011 legislative session. This bill directs the LCB to suspend the license of a tavern, nightclub, or beer/wine specialty shop licensee if DSHS notifies the board that the licensee has an ATM machine that allows the use of EBT cards.

HB 2758 passed in the 2012 legislative session. This bill allows department of revenue (DOR) to direct the LCB to suspend and refuse to renew a license if the taxpayer is more than thirty days delinquent in reporting or remitting taxes.

This rule making will identify these specific instances and others where the LCB may use BAP in lieu of the more formal hearing process.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.010.

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

Name of Proponent: [LCB], governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Alan Rathbun, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Enforcement Chief, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This proposed rule has a positive impact on businesses or individuals who sell alcohol in the state of Washington.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required.

October 3, 2012
Sharon Foster
Chairman

NEW SECTION

WAC 314-42-110 Brief adjudicative proceedings. The Administrative Procedure Act provides for brief adjudicative proceedings in RCW 34.05.482 through 34.05.494. The board will conduct brief adjudicative proceedings where it does not violate any provision of law and where protection of the public interest does not require the board to give notice and an opportunity to participate to persons other than the parties. If an adjudicative proceeding is requested, a brief adjudicative proceeding will be conducted where the matter involves one or more of the following:

(1) Liquor license suspensions due to nonpayment of spirits taxes per RCW 66.24.010;

(2) Liquor license denials per WAC 314-07-065(2);

(3) Liquor license denials per WAC 314-07-040;

(4) Special occasion license application denials per WAC 314-07-040;

(5) Special occasion license application denials per WAC 314-07-065(7);

(6) MAST provider or trainer denials for noncompliance with a support order in accordance with RCW 66.20.085;

(7) MAST provider denials or revocations per WAC 314-17-070;

(8) Liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015;

(9) One-time event denials for private clubs per WAC 314-40-080;

(10) Banquet permit denials per WAC 314-18-030;

(11) The restrictions recommended by the local authority on a nightclub license are denied per WAC 314-02-039 (a local authority may request a BAP);

(12) The restrictions recommended by a local authority are approved per WAC 314-02-039 (an applicant for a nightclub license may request a BAP);

(13) Liquor license suspensions due to noncompliance with a support order per RCW 66.24.010;

(14) Liquor license suspensions due to noncompliance with RCW 74.08.580(2), electronic benefits cards, per RCW 66.24.013;

(15) License suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630;

(16) License suspension due to nonpayment of spirits distributor license fees per RCW 66.24.055; and

(17) Tobacco license denials per WAC 314-33-005.

NEW SECTION

WAC 314-42-115 Preliminary record in brief adjudicative proceedings. (1) The preliminary record with respect to a liquor license suspension due to nonpayment of spirits taxes in RCW 66.24.010 shall consist of:

(a) All correspondence from department of revenue requesting missing taxes or reports; and

(b) Request from department of revenue to the liquor control board requesting suspension of the liquor license.

(2) The preliminary record with respect to a liquor license intent to deny under WAC 314-07-065(2) where the applicant has failed to submit information or documentation shall consist of:

(a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and

(b) A copy of the application report prepared by licensing division staff.

(3) The preliminary record with respect to a liquor license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant;

(c) Any interoffice correspondence reporting criminal history of applicant(s); and

(d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(4) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant(s);

(c) Any interoffice correspondence reporting criminal history of applicant(s); and

(d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(5) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the application was objected to by the local authority wherein the event is scheduled (WAC 314-07-065(7)) shall consist of:

(a) A copy of the special occasion license application and supporting materials;

(b) A copy of the notice sent to the local authority by licensing division staff;

(c) A copy of the objection received from the local authority; and

(d) A copy of any correspondence from the applicant rebutting the objection from the local authority.

(6) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for noncompliance with a support order in accordance with RCW 66.20.085 shall consist of:

(a) A copy of the license suspension certification from the department of social and health services; and

(b) A copy of all documents received from or on behalf of the permit holder rebutting the identification of the server, provider, or trainer.

(7) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for failing to meet the criminal history standards outlined in WAC 314-07-070(1) shall consist of:

(a) A copy of the personal/criminal history statement submitted by the applicant;

(b) Any interoffice correspondence reporting criminal history of applicant; and

(c) Copies of any correspondence submitted by the applicant, permit holder, provider or trainer explaining or rebutting the criminal history findings.

(8) The preliminary record with respect to liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015 shall consist of:

(a) Copies of any correspondence requesting missing taxes, fees, or penalties when identified after processing reporting form monthly; and

(b) Copies of backup documentation including envelopes showing late filing, corrections on reporting form, and audit findings.

(9) The preliminary record with respect to one-time event denials for private clubs in WAC 314-40-080 shall consist of:

(a) A copy of the written request for a one-time event;

(b) A copy of the written denial including the reason(s) for the denial; and

(c) Copies of all correspondence.

(10) The preliminary record with respect to banquet permit denials in WAC 314-18-030 shall consist of:

(a) The application for a banquet permit;

(b) A copy of the written denial including the reason(s) for denial; and

(c) All correspondence.

(11) The preliminary record with respect to restrictions requested on a nightclub license by a local authority under the provisions in WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(12) The preliminary record with respect to licensing's denial of a request for restrictions on a nightclub license under the provisions of WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(13) The preliminary record with respect to a liquor license suspension due to noncompliance with a support order from the department of social and health services under RCW 66.24.010 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) A copy of the written liquor control board suspension order; and

(c) Copies of all correspondence.

(14) The preliminary record with respect to a liquor license suspension due to noncompliance with RCW 74.08.580, electronic benefits cards, per RCW 66.24.013 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) The complete investigation from department of social and health services to support the suspension;

(c) A copy of the written liquor control board suspension order; and

(d) Copies of all correspondence.

(15) The preliminary records with respect to liquor license suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630 shall consist of:

(a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(16) The preliminary records with respect to liquor license suspensions due to nonpayment of spirits distributor license fees per RCW 66.24.055 shall consist of:

(a) All correspondence requesting missing fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(17) The preliminary record with respect to tobacco license denials shall consist of:

(a) The license application from business license services;

(b) The personal/criminal history statement submitted by the applicant;

(c) The judicial information system criminal history and division recommendation;

(d) The letter of denial from the liquor control board;

(e) The notice of intent to deny statement to the applicant; and

(f) All correspondence.

NEW SECTION

WAC 314-42-120 Conduct of brief adjudicative proceedings. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the board. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ agency expertise as a basis for decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten business days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

NEW SECTION

WAC 314-42-125 Brief adjudicative proceedings conversion to formal adjudicative proceedings. (1) At least five days before the scheduled issuance of either an initial or a final order, any party, including the agency, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that it be converted to a formal adjudicative proceeding. Upon receiving a timely written objection, the presiding officer or reviewing officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer or reviewing officer may convert any brief adjudicative proceeding to a formal adjudicative proceeding whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the board.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding or reviewing officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the agency;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding or reviewing officer deems relevant in reaching a determination.

NEW SECTION

WAC 314-42-130 Appeal rights on brief adjudicatory proceeding initial order. (1) If you are dissatisfied with the order in the brief adjudicative proceeding, you may appeal to the reviewing officer, which shall be the board chair, or designee. This appeal process is called an administrative review. Your appeal must be received by the board, in writing, within twenty-one days after the brief adjudicative proceedings order is posted in the U.S. mail.

(2) The reviewing officer considers your appeal and either upholds or overturns the brief adjudicative proceeding order. The reviewing officer's decision, also called an order, is the final agency decision. The order will be provided to you at the last address you furnished to the board.

(3) The order on review must be in writing, must include a brief statement of the reasons for the decision, and must be entered within twenty days after the date of the initial order or of the request for review, whichever is later. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.

(4) A request for administrative review is deemed to have been denied if the agency does not make a disposition of the matter within twenty days after the request is submitted.

WSR 12-20-082
PROPOSED RULES
NOXIOUS WEED CONTROL BOARD

[Filed October 3, 2012, 11:17 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-16-013.

Title of Rule and Other Identifying Information: Chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties. The board is proposing to amend the state noxious weed list for 2013.

Hearing Location(s): WSDA, Yakima Building, 21 North First Avenue, Yakima, WA 98902, on November 6, 2012, at 1:00 p.m.

Date of Intended Adoption: November 7, 2012.

Submit Written Comments to: Alison Halpern, P.O. Box 42560, Olympia, WA 98504-2560, e-mail ahalpern@agr.wa.gov, fax (360) 902-2094, by November 5, 2012.

Assistance for Persons with Disabilities: Contact Wendy DesCamp by October 30, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state noxious weed list provides the basis for noxious weed control efforts for county and district weed control boards and other entities. It also provides guidelines for the state noxious weed control board. This proposal makes several amendments to WAC 16-750-004 through 16-750-015.

Reasons Supporting Proposal: The Washington state noxious weed control board (WSNWCB) is charged with updating the state noxious weed list on an annual basis to ensure it accurately reflects the noxious weed control priorities and noxious weed distribution.

Statutory Authority for Adoption: Chapter 17.10 RCW.

Statute Being Implemented: Chapter 17.10 RCW.

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

Name of Proponent: WSNWCB, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Alison Halpern, 1111 Washington Street S.E., Olympia, WA 98504, (360) 902-2053.

No small business economic impact statement has been prepared under chapter 19.85 RCW. RCW 19.85.030 (1)(a) requires that an agency prepare a small business economic impact statement (SBEIS) for proposed rules that impose more than a minor cost on businesses in an industry. An analysis of the direct economic effects of the proposed rule amendments indicates that costs to small businesses would be negligible or none at all. A copy of the analysis is shown below, and it can be obtained by contacting Alison Halpern, P.O. Box 42560, Olympia, WA 98504-2560.

AN ANALYSIS TO DETERMINE IF AN SBEIS IS REQUIRED FOR WSNWCB PROPOSALS TO CHANGE THE NOXIOUS WEED LIST (RCW 17.10.080)

Rule Summary: RCW 17.10.080 authorizes the WSNWCB to adopt a state noxious weed list annually to make changes as deemed necessary and important to help reduce the threat and impact of noxious weeds in the state. These annual changes to the weed list are based on proposals received by the WSNWCB, and they are voted on in November following a public hearing. Possible changes to the weed list include but are not limited to: The addition of new species; deletion of species that have been eradicated or found to be less detrimental than originally predicted; changes in Class B areas designated for control; the change of noxious weed class of a species.

The current proposed changes to the 2013 noxious weed list include:

- Add French broom, *Genista monspessulana*, as a Class A noxious weed.
- Add tall hawkweed, *Hieracium piloselloides*, as a Class B noxious weed to be designated everywhere except Stevens and Pend Oreille counties.
- Add common barberry, *Berberis vulgaris*, as a Class C noxious weed.
- Add common teasel, *Dipsacus fullonum*, as a Class C noxious weed.
- Amend current listing of Japanese eelgrass, *Zostera japonica*, to make it a Class C everywhere (rather than limiting to commercially managed shellfish beds only, as presently listed).
- Change eleven Class B noxious weeds to Class C noxious weeds.
- Amend WAC 16-750-004 Noxious weed region descriptions from the ten current regions to six regions.
- Amending designations of sixty-one currently listed Class B noxious weeds to match new regions and updated distribution data.

Purpose of this Analysis: RCW 19.85.030 requires agencies to prepare an SBEIS if the proposed rule will impose more than minor costs on businesses in an industry. The purpose of this analysis is to determine if the proposed changes to the 2013 noxious weed list will impose "more than minor costs" on the businesses directly affected by these proposed changes, which would thereby require WSNWCB to prepare a formal SBEIS.

Nature of aforementioned noxious weed species in Washington:

Proposed addition of a Class A noxious weed: French broom, *Genista monspessulana*, is in the same family and

looks a lot like our notoriously invasive noxious weed Scotch broom. Like Scotch broom, it is a tall, shrubby plant with green, ridged stems, small, three-parted leaves covered in fine hairs, and bright yellow, fragrant flowers. Unlike Scotch broom, it is not widespread in western Washington, which is why it has been proposed as a Class A noxious weed. Currently listed as a noxious weed in Oregon, California, and Hawaii, French broom spreads rapidly and displaces native vegetation. One shrub is capable of producing eight thousand seeds, which can survive at least five years. Climate change seems to be expanding its range. Once used as an ornamental plant, it does not appear to be sold through the horticultural industry anymore.

Proposed addition of a Class B noxious weed: Tall hawkweed, *Hieracium piloselloides*, has been proposed as a Class B noxious weed. Like our other nonnative hawkweed species, tall hawkweed has lance-shaped basal leaves and clusters of yellow flowers growing atop tall, hairy stems. Nonnative hawkweeds spread rapidly in pastures and rangelands, displacing native forbs and grasses that livestock and wildlife rely on for food. Tall hawkweed is currently a listed noxious weed in Oregon and Montana.

Proposed additions of Class C noxious weeds: Common teasel, *Dipsacus fullonum*, has been proposed as a Class C noxious weed. Although teasel is not new to the state - it was first recorded in Washington in 1923 - it appears to be spreading more rapidly in recent years. It thrives in disturbed areas such as roadsides, ditches, moist pasture areas, and vacant lots, but it is becoming increasingly problematic in quality pastureland and farmland, particularly in northwest Washington. Its seeds spread through soil and machinery, especially mowers. Seed crops are especially vulnerable to contamination by teasel seeds. Teasel is typically a biennial that grows up to six feet tall. It has prickly leaves and a very distinctive flowerhead, which is about four inches tall, oval-shaped, and consists of rows of small, purplish flowers. It has distinctive spike-like bracts curling up at the base. Dried teasel flowerheads are sometimes used in floral arrangements.

Common barberry, *Berberis vulgaris*, has been proposed as a Class C noxious weed. This shrubby species with bright yellow flowers was once commonly planted by homesteaders, as its thorny branches made effective hedgerows and fencing for livestock. It spreads by seeds and root sprouts. Common barberry is capable of naturalizing into rocky pastureland and disturbed habitat, but it is its role as an alternative host for stem rust that makes it a serious threat to cereal grain growers. Sexual reproduction of stem rust may occur on common barberry, which could potentially lead to new genetic more virulent and fungicide-resistant strains. Because it is a serious risk to wheat and barley growers, a federal eradication program had been implemented for decades in many northern states until funding ran out in 1981. Current law (WAC 16-472-030) still requires the destruction of common barberry plants in the wheat-producing parts of the state. A Class C listing would help with outreach efforts to educate about the importance of the removal of common barberry.

Proposed amendment of a currently listed Class C noxious weed: Japanese eelgrass, *Zostera japonica*, is an annual or perennial herbaceous plant that grows in intertidal marine waters. Shellfish growers have indicated that this nonnative species is invading once-bare mudflats and significantly reducing yield of shellfish, particularly hard-shell clams, and increasing costs to manage and maintain the shellfish beds. It reduces tidal water flow by up to forty percent, thereby potentially changing mudflat use by organisms. However, this species also appears to share similar structure and function to the important and protected native eelgrass, *Zostera marina*, although it occurs higher in the intertidal zone than the native species. It also appears to be a major food source for migrating shorebirds. Because Japanese eelgrass clearly appears to cause negative economic harm to the shellfish industry but has a complex of positive, negative, neutral, and unknown ecological impacts at this time, the state weed board listed it as a Class C noxious weed on commercially managed shellfish beds only in 2012. The WSNWCB received a proposal to recognize Japanese eelgrass as a Class C noxious weed everywhere instead of just on commercially managed shellfish beds for 2013.

Proposed change of Class B noxious weeds to Class C noxious weeds: In an effort to reduce the size of county noxious weed lists and give county noxious weed control boards the ability to prioritize noxious weeds of local concern, the WSNWCB is proposing to change eleven Class B noxious weeds to Class C noxious weeds. This would mean that these species would not be designated for required control by the WSNWCB; rather county noxious weed control boards would have the option of selecting them for control. The proposed species to be changed are:

Austrian fieldcress	*Rorippa austriaca*
Blackgrass	*Alopecurus myosuroides*
Common catsear	*Hypochaeris radicata*
Polar hawkweed	*Hieracium atratum*
Lawnweed	*Soliva sessilis*
Lepyrodiclis	*Lepyrodiclis holosteoides*
Longspine sandbur	*Cenchrus longispinus*
Oxeye daisy	*Leucanthemum vulgare*
Perennial sowthistle	*Sonchus arvensis ssp. arvensis*
Swainsonpea	*Sphaerophysa salsula*
Wild carrot (except where commercially grown)	*Daucus carota*

Proposed amendment of noxious weed regions: WAC 16-750-004 divides the state into ten noxious weed regions based on eco-types. Class B noxious weeds are generally designated at this regional level. In accordance with RCW 34.05.220(5), which instructs that rules "be clearly and simply stated, so that it can be understood by those required to comply" and by Executive Order 05-03, which requires all agencies to adopt plain talk principles, the WSNWCB is proposing to reduce the number of weed regions from ten to six, using county boundaries rather than ecological regions to make the noxious weed regions and corresponding Class B designations simpler and easier to understand.

Proposed amendments of current Class B designations: Based on the new proposed noxious weed regions described

in WAC 16-750-004 and using current distribution data and input from county noxious weed control boards, the WSNWCB is proposing to update designations of the remaining sixty-one Class B noxious weeds.

Affected Groups and the Cost of Compliance:

Proposed addition of a Class A noxious weed: A Class A noxious weed listing would require the eradication of French broom by all landowners; however, distribution of this nonnative invasive species is extremely limited at this time. The largest known infestation of French broom is on University of Washington property, and eradication efforts are already underway.

Proposed addition of a Class B noxious weed: A Class B noxious weed listing means that the WSNWCB would designate the species for control in areas where it is limited in distribution or altogether absent, and/or where its control is a priority. In designated areas, landowners would be required to control and prevent the spread of the Class B noxious weed. County noxious weed control boards would also have the option of selecting a Class B noxious weed for control where the state has not designated it. Tall hawkweed would be designated everywhere except for Stevens and Pend Oreille counties, which have many widespread and similar-looking hawkweed species whose control is not required.

Proposed additions of Class C noxious weeds: A Class C listing of a species means that the WSNWCB recognizes that the species meets the criteria of a noxious weed. Control of Class C noxious weeds is not mandated by the state, although county noxious weed control boards have the option of selecting Class C noxious weeds for mandatory control at the local level. Destruction of common barberry is already required under WAC 16-472-030 even if county noxious weed control boards do not select it for control. County weed boards could select common teasel for required control if it poses a threat to local agriculture or natural resources.

The horticultural industry: The group most likely to be impacted by the proposed Class A listing of French broom is the horticultural industry. However, it is unlikely that this listing will cause these businesses to lose sales or revenue. The noxious weed list is separate from the WSDA quarantine lists (WAC 16-752-300, 16-752-400, 16-752-500, 16-752-600), which prohibit the sale and transport of particular species, so the proposed noxious weed listing of French broom would not directly prohibit the sale of this plant. Nurseries selling French broom could potentially experience a decrease in sales of this particular species by consumers who voluntarily choose not to purchase ornamental species that are listed noxious weeds. To help assess the magnitude of this indirect economic impact, the state weed board developed a survey through SurveyMonkey (https://www.surveymonkey.com/s/6PKZL9L). A summary of the proposed French broom listing and link to the survey was e-mailed to the Washington Nursery and Landscape Association (WSNLA) on August 29, 2012, for inclusion in their upcoming newsletter. Hard-copies of the survey, handouts comparing different broom species, and self-addressed stamped envelopes were mailed to about forty licensed (by WSDA) nurseries on September 5, 2012. The sampling strategy employed was a systematic, random design so that at least one nursery per county was included in the survey. We did not receive any on-line survey responses, but eighteen hard-copy surveys were returned by mail between September 10 and October 3, 2012. One hundred percent of the respondents indicated that French broom was not stocked as part of their inventory. Therefore the proposed listing, if adopted, would not result in decreased revenue caused by reduced sales of French broom.

The WSNWCB has worked over the years to improve its relationship with the nursery industry. A member of the WSNLA has been appointed to the state weed board's noxious weed committee for over six years to represent the horticultural industry, and the state weed board has had a representative on the WSNLA's invasive plant task force since 2004. The cooperative efforts culminated in the creation of the publication GardenWise: Non-invasive Plants for Your Garden. This collaboration between the horticultural industry, state and county government, NGOs, and an institution of higher learning resulted in a publication that educates the consumer about invasive plants and promotes the sales of noninvasive alternatives, and it has been applauded by gardeners, nurseries, and noxious weed control programs alike. Overall, ten respondents (55.6 percent) indicated that efforts by the WSNWCB to promote noninvasive alternatives to invasive ornamental species were helpful to their businesses. Three respondents (16.6 percent) were not sure if these efforts were helpful to the nursery business, and another four respondents (22.2 percent) left this survey question blank. Only one (5.6 percent) respondent indicated that the WSNWCB efforts were not helpful.

The craft and floral industries: The groups most likely to be impacted by the proposed Class C listing of common teasel are the craft/hobby and floral industries, since dried flowerheads of common teasel are sometimes sold for and used in floral arrangements. However, it is unlikely that this listing will cause these businesses to lose sales or revenue. The noxious weed list is separate from the WSDA quarantine lists (WAC 16-752-300 through 16-752-600), which prohibit the sale and transport of particular species, so the proposed noxious weed listing of common teasel would not directly prohibit the sale of this plant. Craft stores and florists could potentially experience a decrease in sales of common teasel flowerheads by consumers who voluntarily choose not to purchase ornamental species that are listed noxious weeds. To help assess the magnitude of this indirect economic impact, the WSNWCB developed a survey and mailed hard-copies, along with cover letter, handout about common teasel, and a self-addressed stamped envelope. It was mailed on September 5, 2012, to a combination of forty small-business craft/hobby stores registered with the Washington department of revenue under NCIS Code 451120 (craft supply stores) and florist shops licensed through WSDA. The sampling strategy employed was a systematic, random design so that at least one craft store or florist per county was included in the survey. Seventeen surveys were returned between September 13 and September 28, 2012. Fifteen (88.2 percent) respondents indicated that they did not carry common teasel as part of their inventory and that the listing of this plant would not cause lost sales or revenue. One of these respondents took the time to elaborate: "I have been in the retail florist business for over 40 years. Back in my early years in the industry, teasel was quite popular to use in dry arrangements

but it has drastically changed over the years. Teasel is considered an undesirable weed that is seldom ever used in dry type arrangements. There are so many nicer choices now. People are tired of that look of teasel. It will not have any effect on customers or the industry whatsoever." Two (11.8 percent) respondents indicated that they carried common teasel routinely. One small business provided an estimate of annual list sales or revenue of $50-$1,000; however, contact information was not provided and we were unable to request more information. The other small business that carries common teasel noted that they "only use seasonal, would not impact business." Therefore the proposed listing of common teasel as a Class C will not impose "more than minor costs" to the majority of small businesses that rely on this plant as part of their revenue.

The shellfish industry: The large majority of small businesses with Japanese eelgrass on their property are commercial shellfish growers. A small business economic impact survey of the shellfish growers was conducted last year, when Japanese eelgrass was proposed as a Class C noxious weed on commercially managed shellfish beds only. It was concluded that the listing would not cause these businesses to directly lose sales or revenue, nor will the listing itself directly result in the accrual of more than minor costs to the businesses, since control would not be mandated by the WSNWCB. It should be noted that the nominations to add Japanese eelgrass as a Class C noxious weed for 2012 came from several commercial shellfish growers. The original proposals were to add this species as a Class C noxious weed; the WSNWCB modified the proposed Class C listing to limit it to commercially managed shellfish beds only, based on all the information available. Many shellfish growers have expressed concern about this species and will likely control the intertidal plant voluntarily. A few shellfish growers have expressed concern about the public perception of having a listed noxious weed on their shellfish beds and the possible use of chemicals to control it. It should be noted that the WSNWCB supports integrated plant management (IPM) and does not mandate the use of specific control options. To summarize the survey results described in the 2011 document entitled "WSNWCB SBEIS analysis 2012":

- Fifty percent of respondents (eleven of twenty-two) currently have Japanese eelgrass on their shellfish beds; forty-one percent of respondents (nine of twenty-two) do not have Japanese eelgrass on their shellfish beds, and about nine percent of respondents (two of twenty-two) were not sure if they have Japanese eelgrass on their shellfish beds.
- About seventy-three percent of respondents (sixteen of twenty-two) indicated that the potential Class C listing of Japanese eelgrass on commercially managed shellfish beds would *not* cause their business to lose sales or revenue. Eighteen percent of respondents (four of twenty-two) were not sure if the listing would cause their business to lose sales or revenue. Nine percent (two respondents) indicated that the listing would likely cause them to lose sales or revenue.
- Twenty-seven percent of respondents (six of twenty-two) indicated they anticipated controlling Japanese eelgrass, whether or not it is listed as a noxious weed, about thirty-two percent of respondents (seven of twenty-two) indicated they would not control Japanese eelgrass, and about forty-one percent of respondents (nine of twenty-two) were not sure at this time.
- About fifty-five percent of respondents (twelve of twenty-two) anticipated some benefits to listing Japanese eelgrass as a Class C noxious weed on commercially managed shellfish beds, about fourteen percent of participants (three of twenty-two) do not anticipate benefits to the listing, and the remaining thirty-one percent of respondents (seven of twenty-two) are not sure if there are benefits to the proposed listing.

There are likely a few small businesses outside of the commercial shellfish industry that have Japanese eelgrass on their property, such as marinas. There is at least one hotel that might have this species on its property, but it was included in last year's survey since it also commercially raises shellfish on the property. However, control of Japanese eelgrass would not be required by the WSNWCB if the current listing is expanded, and so far no county noxious weed control board has selected this species for mandatory control.

The WSNWCB held a meeting in February 2012, with stakeholders - including representatives from the shellfish industry, state agencies, NGOs, and concerned citizens - to further discuss issues about Japanese eelgrass, after it had been listed as a Class C noxious weed on commercially managed shellfish beds only for the 2012 weed list. The state weed board will likely continue to be a part of the discussion about Japanese eelgrass, since it has generated such interest.

Nonspecific groups:

Proposed addition of a Class B noxious weed: The proposed addition of tall hawkweed as a Class B noxious weed would not result in more than minor costs to small businesses. It appears to be limited in distribution, and the primary known infestations occur on public lands (WSDOT: Hwy. 2 and Hwy. 203).

Proposed addition of a Class C noxious weed: The proposed addition of common barberry as a Class C noxious weed would not incur any additional costs to small business or cause them to lose sales or revenue because destruction of this species in wheat-producing areas of the state is already mandatory under WAC 16-472-030. It is already quarantined under WAC 16-472-020 and thus cannot be sold, traded, or shipped.

Proposed changes of eleven Class B noxious weeds to Class C noxious weeds: Changing these eleven Class B noxious weeds to Class C noxious weeds actually removes landowner responsibility to control these species where they are designated by the WSNWCB. County noxious weed control boards may choose to select some of these species for local control in order to protect agriculture and natural resources if these noxious weeds pose a threat. Control requirements of a Class B designate and a Class B nondesignate or Class C selected for control by a county noxious weed control board are identical, except on timberland.

Proposed amendment to noxious weed regions: The proposed amendment of the existing noxious weed regions serves to simplify the regions used to designate Class B noxious weeds and would not have any costs to small businesses.

Proposed changes in Class B designations: The designations of the sixty-one currently listed Class B noxious weeds have been amended to match the proposed new six-regions map, and updated to better match existing distribution data. The goal is to make the Class B control requirements simpler to understand. For many counties, control requirements have not changed. In general, the WSNWCB designated Class B species for control where they were either absent from or very limited in a given county. If a particular species was more abundant, the WSNWCB did not designate it unless it was at the bequest of the county noxious weed control board, and in most of these cases, control was already required by the state or by the county weed board.

Alternatives to the Proposed Assessment:

Proposed addition of a Class A noxious weed: The alternative to the proposed listing would be that French broom is not added as a Class A noxious weed, resulting in a status quo of the current situation, whereby individual landowners or land managers have the option of voluntarily eradicating the limited populations of this species. County noxious weed boards would not be able to require eradication of this species while it is still limited in distribution, which would likely allow French broom to spread further in Washington state.

Proposed addition of one Class B noxious weed: The alternative to the proposed listing would be to not add tall hawkweed as a Class B noxious weed, resulting in a status quo of the current situation, whereby individual landowners or land managers have the option of voluntarily controlling this species. County noxious weed control boards could educate about tall hawkweed if it is a local concern, but control could not be mandated.

Proposed addition of two Class C noxious weeds: The alternative to the proposed listings would be to not add common teasel or common barberry as Class C noxious weeds, resulting in a status quo of the current situation, whereby individual landowners or land managers have the option of voluntarily controlling common teasel, and destruction of common barberry would still be required under WAC 16-742-030. County noxious weed control boards could educate about both species if they are a local concern, but control could not be mandated through chapter 17.10 RCW of either species.

Proposed amendment to Class C noxious weed listing: The alternative to the proposed amendment to the current Japanese eelgrass listing is that it would remain a recognized Class C noxious weed on commercially managed shellfish beds only, resulting in a status quo of the current situation. Individual landowners or land managers would have the option of voluntarily controlling this species but county noxious weed control boards could only require control on commercially managed shellfish beds if control were to be mandatory.

Proposed changes of eleven Class B noxious weeds to Class C noxious weeds: The alternative to the proposed changes of eleven Class B to Class C noxious weeds would be to leave these species as Class B noxious weeds with their current designations intact.

Proposed amendment to noxious weed regions: The alternative to the proposed amendment to the noxious weed regions would be to leave the existing ten regions the way they are currently described.

Proposed amendments of current Class B designations: The alternative to the proposed amendments of current Class B designations would be to leave them the way they are written, using the ten noxious weed regions.

Conclusions: Few, if any, small businesses will be directly impacted by these proposed changes to the 2013 noxious weed list. Based on feedback from the horticultural industry, French broom does not appear to be widely carried in the nursery trade, so it is unlikely that these businesses will experience direct or even indirect negative impacts to sales or revenue. It is also unlikely that craft supply stores and florists will experience direct or even indirect negative impacts to sales or revenue due to the Class C listing of common teasel. Since common barberry is already quarantined (WAC 16-742-020) and destruction of these shrubs is already required under WAC 16-472-030 in wheat-producing areas, there will be no changes to small businesses if it is added as a Class C noxious weed. Tall hawkweed is limited in distribution and known infestations occur on public lands, so few if any small businesses will be affected if this species is added as a Class B noxious weed. The majority of small businesses with Japanese eelgrass on their property are commercial shellfish growers. An SBEIS analysis conducted last year, when Japanese eelgrass was proposed as a Class C noxious weed on commercially managed shellfish beds only indicated that any foreseen negative impacts to sales or revenue would be the direct result of the nonnative plant Japanese eelgrass on their shellfish beds and not due to the actual noxious weed listing. The WSNWCB would not require control of this species and does not mandate control methods. Since shellfish growers and other property owners, including other small businesses, can control Japanese eelgrass whether or not it is listed as a noxious weed, these potential indirect impacts on businesses would not be the direct result of the noxious weed listing.

The proposed changes of eleven Class B noxious weeds to Class C noxious weeds would actually ease control requirements by the state. Amending the Class B designation regions from ten to six would not have direct impacts on small businesses, although it would make the designation regions easier to understand. Amending the designations of current Class B noxious weeds to correspond to the new regions would not have any impact to small businesses, and the net impact of updating Class B designations to fit current distribution would likely be negligible or neutral.

Based upon the above analysis, the WSNWCB concludes that minor costs - if any - imposed would affect less than ten percent of small businesses and would not exceed $100 in lost sales or revenue as a direct result of the proposed rule-making changes. The WSNWCB concludes that small businesses will not be disproportionately impacted, nor would the proposed rule changes impose more than a minor cost on businesses in an industry. Therefore, we conclude that a formal SBEIS is not required.

A cost-benefit analysis is not required under RCW 34.05.328. The WSNWCB is not one of the agencies listed in this section.

October 3, 2012
Alison Halpern
Executive Secretary

AMENDATORY SECTION (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

WAC 16-750-004 Noxious weed region descriptions. The state of Washington is divided into ((~~ten~~)) six regions for the purpose of designating Class B noxious weeds.

(1) Region 1 description. A region ((~~consisting of all lands lying within the boundaries of Clallam and Jefferson counties.~~

~~(2) Region 2 description. A region consisting of all lands lying within the boundaries of Whatcom, Skagit, Snohomish, San Juan, and Island counties.~~

~~(3) Region 3 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Okanogan County.~~

~~(b) All lands lying within the boundaries of Chelan and Douglas counties and north of Highway 2.~~

~~(4) Region 4 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Ferry, Stevens, and Pend Oreille counties.~~

~~(b) All lands lying within the boundaries of Spokane County and north of the Spokane River.~~

~~(5) Region 5 description. A region consisting of all lands lying within the boundaries of Grays Harbor, Mason, Kitsap, Thurston, Pierce, and King counties.~~

~~(6) Region 6 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Kittitas and Grant counties.~~

~~(b) All lands lying within the boundaries of Chelan and Douglas counties and south of Highway 2.~~

~~(c) All lands lying within the boundaries of Yakima County and north of Highway 12 from the Yakima — Lewis County line to Yakima and north of Highway 82 from Yakima to the Yakima — Kittitas County line.~~

~~(d) All lands lying within the boundaries of Ranges 28E, 29E, and 30E of Adams County.~~

~~(7) Region 7 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Lincoln and Whitman counties.~~

~~(b) All lands lying within the boundaries of Spokane County and south of the Spokane River.~~

~~(c) All lands lying within the boundaries of Ranges 31E, 32E, 33E, 34E, 35E, 36E, 37E, and 38E of Adams County.~~

~~(8) Region 8 description. A region consisting of all lands lying within the boundaries of Pacific, Lewis, Wahkiakum, Cowlitz, Skamania, and Clark counties.~~

~~(9) Region 9 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Benton and Klickitat counties.~~

~~(b) All lands lying within the boundaries of Yakima County and south of Highway 12 from the Yakima — Lewis County line to Yakima and south of Highway 82 from Yakima to the Yakima — Kittitas County line.~~

~~(c) All lands lying within the boundaries of Franklin County and west of Highway 395.~~

~~(10) Region 10 description. A region consisting of:~~

~~(a) All lands lying within the boundaries of Asotin, Garfield, Columbia, and Walla Walla counties.~~

~~(b) All lands lying within the boundaries of Franklin County and east of Highway 395.~~)) containing all lands lying within the boundaries of Clallam, Jefferson, Grays Harbor, Mason, and Pacific counties.

(2) Region 2 description. A region containing all lands lying within the boundaries of San Juan, Whatcom, Skagit, Snohomish, Island, King, Kitsap, Pierce, and Thurston counties.

(3) Region 3 description. A region containing all lands lying within the boundaries of Lewis, Cowlitz, Wahkiakum, Clark, and Skamania counties.

(4) Region 4 description. A region containing all lands lying within the boundaries of Chelan, Douglas, Okanogan, Ferry, Stevens, and Pend Oreille counties.

(5) Region 5 description. A region containing all lands lying within the boundaries of Klickitat, Yakima, Kittitas, Grant, Adams, Lincoln, Spokane, and Whitman counties.

(6) Region 6 description. A region containing all lands lying within the boundaries of Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin counties.

AMENDATORY SECTION (Amending WSR 12-01-050, filed 12/15/11, effective 1/15/12)

WAC 16-750-005 State noxious weed list—Class A noxious weeds.

Common Name	Scientific Name
((~~bean-caper, Syrian~~	~~*Zygophyllum fabago*~~
~~blueweed, Texas~~	~~*Helianthus ciliaris*~~
~~brome, false~~	~~*Brachypodium sylvaticum*~~
~~broom, Spanish~~	~~*Spartium junceum*~~
~~buffalobur~~	~~*Solanum rostratum*~~
~~bulrush, ricefield~~	~~*Schoenoplectus mucronatus*~~
~~clary, meadow~~	~~*Salvia pratensis*~~
~~clematis, oriental~~	~~*Clematis orientalis*~~
~~cordgrass, common~~	~~*Spartina anglica*~~
~~cordgrass, dense flower~~	~~*Spartina densiflora*~~
~~cordgrass, salt meadow~~	~~*Spartina patens*~~
~~cordgrass, smooth~~	~~*Spartina alterniflora*~~
~~crupina, common~~	~~*Crupina vulgaris*~~
~~flax, spurge~~	~~*Thymelaea passerina*~~
~~four o'clock, wild~~	~~*Mirabilis nyctaginea*~~
~~geranium, shiny~~	~~*Geranium lucidum*~~
~~goatsrue~~	~~*Galega officinalis*~~
~~hawkweed, European~~	~~*Hieracium sabaudum*~~
~~hawkweed, yellow devil~~	~~*Hieracium floribundum*~~
~~hogweed, giant~~	~~*Heracleum mantegazzianum*~~
~~hydrilla~~	~~*Hydrilla verticillata*~~
~~johnsongrass~~	~~*Sorghum halepense*~~

Common Name	Scientific Name
~~knapweed, bighead~~	~~*Centaurea macrocephala*~~
~~knapweed, Vochin~~	~~*Centaurea nigrescens*~~
~~kudzu~~	~~*Pueraria montana var. lobata*~~
~~milfoil, variable-leaf~~	~~*Myriophyllum heterophyllum*~~
~~mustard, garlic~~	~~*Alliaria petiolata*~~
~~nightshade, silverleaf~~	~~*Solanum elaeagnifolium*~~
~~primrose-willow, floating~~	~~*Ludwigia peploides*~~
~~rush, flowering~~	~~*Butomus umbellatus*~~
~~sage, clary~~	~~*Salvia sclarea*~~
~~sage, Mediterranean~~	~~*Salvia aethiopis*~~
~~spurge, eggleaf~~	~~*Euphorbia oblongata*~~
~~starthistle, purple~~	~~*Centaurea calcitrapa*~~
~~sweetgrass, reed~~	~~*Glyceria maxima*~~
~~thistle, Italian~~	~~*Carduus pycnocephalus*~~
~~thistle, milk~~	~~*Silybum marianum*~~
~~thistle, slenderflower~~	~~*Carduus tenuiflorus*~~
~~velvetleaf~~	~~*Abutilon theophrasti*~~
~~woad, dyers~~	~~*Isatis tinctoria*~~))
broom, French	*Genista monspessulana*
broom, Spanish	*Spartium junceum*
buffalobur	*Solanum rostratum*
common crupina	*Crupina vulgaris*
cordgrass, common	*Spartina anglica*
cordgrass, dense flower	*Spartina densiflora*
cordgrass, salt meadow	*Spartina patens*
cordgrass, smooth	*Spartina alterniflora*
dyers woad	*Isatis tinctoria*
eggleaf spurge	*Euphorbia oblongata*
false brome	*Brachypodium sylvaticum*
floating primrose-willow	*Ludwigia peploides*
flowering rush	*Butomus umbellatus*
garlic mustard	*Alliaria petiolata*
giant hogweed	*Heracleum mantegazzianum*
goatsrue	*Galega officinalis*
hawkweed, European	*Hieracium sabaudum*
hawkweed, yellow devil	*Hieracium floribundum*
hydrilla	*Hydrilla verticillata*
johnsongrass	*Sorghum halepense*
knapweed, bighead	*Centaurea macrocephala*
knapweed, Vochin	*Centaurea nigrescens*
kudzu	*Pueraria montana var. lobata*
meadow clary	*Salvia pratensis*
oriental clematis	*Clematis orientalis*
purple starthistle	*Centaurea calcitrapa*
reed sweetgrass	*Glyceria maxima*
ricefield bulrush	*Schoenoplectus mucronatus*
sage, clary	*Salvia sclarea*
sage, Mediterranean	*Salvia aethiopis*
shiny geranium	*Geranium lucidum*
silverleaf nightshade	*Solanum elaeagnifolium*
spurge flax	*Thymelaea passerina*
Syrian bean-caper	*Zygophyllum fabago*
Texas blueweed	*Helianthus ciliaris*
thistle, Italian	*Carduus pycnocephalus*
thistle, milk	*Silybum marianum*
thistle, slenderflower	*Carduus tenuiflorus*
variable-leaf milfoil	*Myriophyllum heterophyllum*
velvetleaf	*Abutilon theophrasti*
wild four o'clock	*Mirabilis nyctaginea*

AMENDATORY SECTION (Amending WSR 12-01-050, filed 12/15/11, effective 1/15/12)

WAC 16-750-011 State noxious weed list—Class B noxious weeds.

	Name		Will be a "Class B designate" in all lands lying within:
(((~~(1)~~	~~alyssum, hoary *Berteroa incana*~~	~~(a)~~	~~regions 1, 2, 5, 6, 8, 9, 10~~
		~~(b)~~	~~Chelan and Douglas counties of region 3~~
		~~(c)~~	~~Okanogan County of region 3, except Ranges 29 through 31 East of Townships 37 through 40 North~~
		~~(d)~~	~~Ferry County of region 4 south of Hwy 20~~
		~~(e)~~	~~Adams and Whitman counties of region 7.~~
~~(2)~~	~~archangel, yellow *Lamiastrum galeobdolon*~~	~~(a)~~	~~Clallam County of region 1~~
		~~(b)~~	~~San Juan County of region 2~~
		~~(c)~~	~~Cowlitz and Skamania counties of region 8.~~

	Name		Will be a "Class B designate" in all lands lying within:
~~(3)~~	~~arrowhead, grass-leaved *Sagittaria graminea*~~	~~(a)~~	~~regions 1, 3, 4, 6, 7, 8, 9, 10~~
		~~(b)~~	~~region 2 except Lake Roesiger, Lake Serene, Lake Loma and Echo Lake in Snohomish County~~
		~~(c)~~	~~region 5 except Mason Lake in Mason County.~~
~~(4)~~	~~blackgrass *Alopecurus myosuroides*~~	~~(a)~~	~~regions 1, 2, 3, 5, 6, 8, 9, 10~~
		~~(b)~~	~~Ferry, Stevens, Pend Oreille counties of region 4~~
		~~(c)~~	~~Adams County of region 7.~~
~~(5)~~	~~blueweed *Echium vulgare*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 6, 8, 9, 10~~
		~~(b)~~	~~region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.~~
~~(6)~~	~~broom, Scotch *Cytisus scoparius*~~		~~regions 3, 4, 6, 7, 9, 10.~~
~~(7)~~	~~bryony, white *Bryonia alba*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 6, 8, 9~~
		~~(b)~~	~~region 7 except Whitman County~~
		~~(c)~~	~~Franklin and Asotin counties of region 10.~~
~~(8)~~	~~bugloss, common *Anchusa officinalis*~~	~~(a)~~	~~regions 1, 2, 3, 5, 6, 8, 9, 10~~
		~~(b)~~	~~region 4 except Stevens and Spokane counties~~
		~~(c)~~	~~Lincoln, Adams, and Whitman counties of region 7.~~
~~(9)~~	~~bugloss, annual *Anchusa arvensis*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 6, 8, 9~~
		~~(b)~~	~~Lincoln and Adams counties~~
		~~(c)~~	~~Whitman County except ranges 43 through 46 East of Townships 16 through 20 North~~
		~~(d)~~	~~Asotin County of region 10.~~
~~(10)~~	~~butterfly bush *Buddleja davidii*~~	~~(a)~~	~~Pend Oreille County of region 4~~
		~~(b)~~	~~Grays Harbor County, and that portion of Thurston County lying below the ordinary high-water mark of the Nisqually River in region 5~~
		~~(c)~~	~~Kittitas County of region 6~~
		~~(d)~~	~~Lincoln County of region 7.~~
~~(11)~~	~~camelthorn *Alhagi maurorum*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 7, 8, 9~~
		~~(b)~~	~~region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Intercounty Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County~~

	Name		Will be a "Class B designate" in all lands lying within:
		(c)	Franklin, Columbia, Garfield, and Asotin counties of region 10
		(d)	an area beginning at the Washington – Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington – Oregon border, then west along the Washington – Oregon border to the point of beginning.
(12)	carrot, wild *Daucus carota*	(a)	regions 3, 7 (except where intentionally cultivated)
		(b)	Spokane and Ferry counties of region 4 (except where intentionally cultivated)
		(c)	region 6, except Yakima County (except where intentionally cultivated)
		(d)	region 9, except Yakima County (except where intentionally cultivated)
		(e)	region 10, except Walla Walla County (except where intentionally cultivated.
(13)	catsear, common *Hypochaeris radicata*	(a)	regions 3, 4, 6, 7, 10
		(b)	region 9 except Klickitat County.
(14)	chervil, wild *Anthriscus sylvestris*	(a)	regions 1, 3, 4, 5, 6, 7, 9, 10
		(b)	region 2 except Guemes Island in Skagit County
		(c)	region 8 except Clark County.
(15)	cinquefoil, sulfur *Potentilla recta*	(a)	regions 1, 3, 8, 10
		(b)	region 2 except Skagit County
		(c)	region 4 except Stevens, Ferry, and Pend Oreille counties
		(d)	region 5 except Thurston County
		(e)	region 6 except Yakima County
		(f)	region 7 except Spokane County
		(g)	region 8 except Lewis County
		(h)	region 9 except Klickitat County.
(16)	daisy, oxeye *Leucanthemum vulgare*	(a)	regions 7, 10
		(b)	region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East
		(c)	region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.
(17)	elodea, Brazilian *Egeria densa*	(a)	regions 3, 4, 6, 7, 9, 10
		(b)	Lewis County of region 8
		(c)	Clallam County of region 1
		(d)	King County of region 5, except lakes Washington, Sammamish, Union and Fenwick.
(18)	fanwort *Cabomba caroliniana*	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(b)	region 8 except T8N, R3W of Cowlitz County.
(19)	fennel, common *Foeniculum vulgare* (except var. *azoricum*)	(a)	regions 3, 4, 6, 7, 8, 9, 10
		(b)	region 1 except the incorporated areas of Port Townsend
		(c)	region 2 except the incorporated areas of Anacortes and Mount Vernon
		(d)	region 5 except King and Kitsap counties.

	Name		Will be a "Class B designate" in all lands lying within:
~~(20)~~	~~fielderess, Austrian *Rorippa austriaca*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 6, 8, 9~~
		~~(b)~~	~~regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.~~
~~(21)~~	~~floating heart, yellow *Nymphoides peltata*~~	~~(a)~~	~~regions 1, 2, 3, 5, 6, 7, 8, 9, 10~~
		~~(b)~~	~~region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.~~
~~(22)~~	~~gorse *Ulex europaeus*~~	~~(a)~~	~~regions 1, 3, 4, 6, 7, 9, 10~~
		~~(b)~~	~~Skagit, Island, and Whatcom counties of region 2~~
		~~(c)~~	~~Thurston, Kitsap, Pierce, and King counties of region 5~~
		~~(d)~~	~~Wahkiakum, Clark, Skamania, Cowlitz, and Lewis counties of region 8.~~
~~(23)~~	~~hawkweed, mouseear *Hieracium pilosella*~~	~~(a)~~	~~regions 1, 2, 3, 4, 6, 7, 8, 9, 10~~
		~~(b)~~	~~region 5 except Thurston County~~
		~~(c)~~	~~Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.~~
~~(24)~~	~~hawkweed, orange *Hieracium aurantiacum*~~	~~(a)~~	~~regions 1, 3, 6, 9, 10~~
		~~(b)~~	~~Skagit County of region 2~~
		~~(c)~~	~~Ferry County of region 4~~
		~~(d)~~	~~Pierce, Thurston and King counties of region 5~~
		~~(e)~~	~~Lincoln and Adams counties of region 7~~
		~~(f)~~	~~Lewis County of region 8.~~
~~(25)~~	~~hawkweed, polar *Hieracium atratum*~~	~~(a)~~	~~regions 1, 2, 3, 4, 6, 7, 8, 9, 10~~
		~~(b)~~	~~region 5 outside the boundaries of Mt. Rainier National Park.~~
~~(26)~~	~~hawkweed, queen devil *Hieracium glomeratum*~~	~~(a)~~	~~regions 1, 2, 3, 5, 6, 7, 8, 9, 10~~
		~~(b)~~	~~Ferry County of region 4.~~
~~(27)~~	~~hawkweed, smooth *Hieracium laevigatum*~~	~~(a)~~	~~regions 1, 3, 4, 5, 6, 7, 8, 9, 10~~
		~~(b)~~	~~San Juan, Island, and Skagit counties of region 2.~~
~~(28)~~	~~hawkweed, yellow *Hieracium caespitosum*~~	~~(a)~~	~~regions 1, 2, 3, 5, 6, 7, 8, 10~~
		~~(b)~~	~~region 4 except Stevens and Pend Oreille counties~~
		~~(c)~~	~~region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.~~
~~(29)~~	~~helmet, policeman's Impatiens glandulifera~~	~~(a)~~	~~regions 1, 3, 4, 6, 7, 8, 9, 10~~
		~~(b)~~	~~region 2 except Whatcom County~~
		~~(c)~~	~~region 5 except Thurston County.~~
~~(30)~~	~~herb Robert *Geranium robertianum*~~		~~regions 3, 4, 6, 7, 9, 10~~
~~(31)~~	~~houndstongue *Cynoglossum officinale*~~	~~(a)~~	~~Kittitas County of region 6~~
		~~(b)~~	~~region 5~~
		~~(c)~~	~~Douglas and Chelan counties of regions 3 and 6.~~
~~(32)~~	~~indigobush *Amorpha fruticosa*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 6~~
		~~(b)~~	~~regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream~~
		~~(c)~~	~~regions 8, 9, and 10 except within 200 feet of the Columbia River.~~

	Name		Will be a "Class B designate" in all lands lying within:
~~(33)~~	~~knapweed, black *Centaurea nigra*~~	~~(a)~~	~~regions 1, 2, 3, 4, 7, 9, 10~~
		~~(b)~~	~~region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties~~
		~~(c)~~	~~region 6 except Kittitas County~~
		~~(d)~~	~~region 8 except Clark County.~~
~~(34)~~	~~knapweed, brown *Centaurea jacea*~~	~~(a)~~	~~regions 1, 2, 3, 4, 7, 9, 10~~
		~~(b)~~	~~region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties~~
		~~(c)~~	~~region 6 except Kittitas County~~
		~~(d)~~	~~region 8 except Clark County.~~
~~(35)~~	~~knapweed, diffuse *Centaurea diffusa*~~	~~(a)~~	~~regions 1, 2, 5, 8~~
		~~(b)~~	~~Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E., Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.~~
		~~(c)~~	~~Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6~~
		~~(d)~~	~~Franklin County of regions 9 and 10.~~
~~(36)~~	~~knapweed, meadow *Centaurea jacea x nigra*~~	~~(a)~~	~~regions 1, 2, 3, 4, 7, 9, 10~~
		~~(b)~~	~~region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties~~
		~~(c)~~	~~region 6 except Kittitas County~~
		~~(d)~~	~~region 8 except Clark County.~~
~~(37)~~	~~knapweed, Russian *Acroptilon repens*~~	~~(a)~~	~~regions 1, 2, 5, 7, 8~~
		~~(b)~~	~~region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County~~
		~~(c)~~	~~Adams County of region 6 except for the area west of Highway 17 and North of Highway 26~~
		~~(d)~~	~~Intercounty Weed District No. 52~~
		~~(e)~~	~~region 10 except Franklin County.~~
~~(38)~~	~~knapweed, spotted *Centaurea stoebe*~~	~~(a)~~	~~regions 1, 2, 3, 5, 6, 9~~
		~~(b)~~	~~Ferry County of region 4~~
		~~(c)~~	~~Adams and Whitman counties of region 7~~

	Name		Will be a "Class B designate" in all lands lying within:
		(d)	region 8, except that portion of Lewis County below the ordinary high watermark of the Tilton River from Hwy. 508 to Lake Mayfield
		(e)	region 10 except Garfield County.
(39)	knotweed, Bohemian *Polygonum x bohemicum*	(a)	Kittitas County of region 6
		(b)	Chelan and Douglas counties of regions 3 and 6
		(c)	Pend Oreille County of region 4
		(d)	Asotin County of region 10.
(40)	knotweed, giant *Polygonum sachalinense*	(a)	Kittitas County of region 6
		(b)	Pend Oreille County of region 4
		(c)	Asotin County of region 10.
(41)	knotweed, Himalayan *Polygonum polystachyum*	(a)	Kittitas County of region 6
		(b)	Pend Oreille County of region 4
		(c)	Lewis County of region 8
		(d)	Asotin County of region 10.
(42)	knotweed, Japanese *Polygonum cuspidatum*	(a)	Kittitas County of region 6
		(b)	Chelan and Douglas counties of regions 3 and 6
		(c)	Pend Oreille County of region 4
		(d)	Asotin County of region 10.
(43)	kochia *Kochia scoparia*	(a)	Regions 1, 2, 5, 8
		(b)	Pend Oreille County of region 4
		(c)	Kittitas County of region 6.
(44)	laurel, spurge *Daphne laureola*	(a)	regions 3, 4, 6, 7, 8, 9, 10
		(b)	San Juan, Snohomish and Skagit counties of region 2
		(c)	Grays Harbor and Mason counties of region 5.
(45)	lawnweed *Soliva sessilis*	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b)	region 5 except King and Thurston counties.
(46)	lepyrodiclis *Lepyrodiclis holosteoides*	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
		(b)	region 7 except an area within Whitman County east of the Pullman – Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.
(47)	loosestrife, garden *Lysimachia vulgaris*	(a)	regions 1, 2, 3, 4, 6, 7, 8, 9, 10
		(b)	region 5 except King County
		(c)	Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.
(48)	loosestrife, purple *Lythrum salicaria*	(a)	regions 1, 4, 7, 8
		(b)	region 2 except Snohomish County
		(c)	region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside
		(d)	Grays Harbor, Mason, Kitsap, and Thurston counties of region 5

	Name		Will be a "Class B designate" in all lands lying within:
		(e)	Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
		(f)	Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections
		(g)	region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed
		(h)	region 9 except Benton County
		(i)	region 10 except Walla Walla County
		(j)	Intercounty Weed Districts No. 51 and No. 52.
(49)	loosestrife, wand *Lythrum virgatum*	(a)	regions 1, 4, 7, 8
		(b)	region 2 except Snohomish County
		(c)	region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside
		(d)	region 5 except King County
		(e)	Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
		(f)	region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed
		(g)	region 9 except Benton County
		(h)	region 10 except Walla Walla County
		(i)	Intercounty Weed Districts No. 51 and No. 52.
(50)	nutsedge, yellow *Cyperus esculentus*	(a)	regions 1, 2, 3, 4, 5, 7, 8
		(b)	region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.
		(c)	region 9 except:
			(i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point

	Name		Will be a "Class B designate" in all lands lying within:
			beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.
		(ii)	an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County
		(d)	region 10 except Walla Walla County.
(51)	oxtongue, hawkweed *Picris hieracioides*	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(b)	region 8 except Skamania County.
(52)	parrotfeather *Myriophyllum aquaticum*	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(b)	region 8 except Clark, Cowlitz, and Wahkiakum counties.
(53)	pepperweed, perennial *Lepidium latifolium*	(a)	regions 1, 2, 3, 4, 5, 7, 8, 10
		(b)	Intercounty Weed Districts No. 51 and 52
		(c)	Kittitas County of region 6
		(d)	Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.
(54)	poison-hemlock *Conium maculatum*	(a)	Clallam County and that area lying within Port Townsend city limits in Jefferson County of region 1
		(b)	Snohomish and San Juan counties of region 2
		(c)	Pend Oreille County of region 4
		(d)	Kitsap and Thurston counties of region 5
		(e)	Kittitas County of region 6
		(f)	Lincoln County of region 7
		(g)	Clark County of region 8.
(55)	primrose, water *Ludwigia hexapetala*	(a)	regions 1, 2, 3, 4, 5, 6, 7, 9, 10
		(b)	region 8 except T8N, R3W, S14 of Cowlitz County.
(56)	puncturevine *Tribulus terrestris*	(a)	Skagit County of region 2
		(b)	Kittitas County of region 6
		(c)	Adams County
		(d)	Clallam County of region 1.
(57)	ragwort, tansy *Senecio jacobaea*	(a)	regions 3, 4, 6, 7, 9, 10
		(b)	region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.

	Name		Will be a "Class B designate" in all lands lying within:
~~(58)~~	~~reed, common, nonnative genotypes *Phragmites australis*~~	~~(a)~~	~~region 1~~
		~~(b)~~	~~Island, San Juan and Snohomish counties of region 2~~
		~~(c)~~	~~Okanogan County of region 3~~
		~~(d)~~	~~Pend Oreille and Stevens counties of region 4~~
		~~(e)~~	~~region 5 except Grays Harbor and Pierce counties~~
		~~(f)~~	~~Kittitas County of region 6~~
		~~(g)~~	~~Yakima County of regions 6 and 9~~
		~~(h)~~	~~Lincoln County of region 7~~
		~~(i)~~	~~Clark and Lewis counties of region 8~~
		~~(j)~~	~~Klickitat County of region 9~~
		~~(k)~~	~~Asotin County of region 10.~~
~~(59)~~	~~Saltcedar *Tamarix ramosissima*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 7, 8, unless intentionally established prior to 2004~~
		~~(b)~~	~~region 6 except Grant County, unless intentionally established prior to 2004~~
		~~(c)~~	~~region 9 except Benton and Franklin counties, unless intentionally established prior to 2004~~
		~~(d)~~	~~region 10 except Franklin County, unless intentionally established prior to 2004.~~
~~(60)~~	~~sandbur, longspine *Cenchrus longispinus*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 7, 8~~
		~~(b)~~	~~Adams County of region 6 except for that area lying within Intercounty Weed District No. 52~~
		~~(c)~~	~~Intercounty Weed District No. 51~~
		~~(d)~~	~~Kittitas County of region 6~~
		~~(e)~~	~~Asotin County of region 10.~~
~~(61)~~	~~skeletonweed, rush *Chondrilla juncea*~~	~~(a)~~	~~regions 1, 2, 3, 5, 8~~
		~~(b)~~	~~Franklin County except T13N, R36E; and T14N, R36E~~
		~~(c)~~	~~Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.~~
		~~(d)~~	~~region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road I Northwest~~
		~~(e)~~	~~Stevens County north of Township 33 North of region 4~~
		~~(f)~~	~~Ferry and Pend Oreille counties of region 4~~
		~~(g)~~	~~region 9 except the Dallesport area in Klickitat County lying within Township 2N, Ranges 13 and 14~~
		~~(h)~~	~~Asotin County of region 10~~
		~~(i)~~	~~Garfield County south of Highway 12~~
		~~(j)~~	~~Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road~~

	Name		Will be a "Class B designate" in all lands lying within:
		(lc)	Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.
(62)	sowthistle, perennial *Sonchus arvensis ssp. arvensis*	(a)	regions 1, 2, 3, 4, 7, 8, 9, 10
		(b)	Adams County of region 6
		(c)	region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.
(63)	spurge, leafy *Euphorbia esula*	(a)	regions 1, 2, 3, 4, 5, 6, 8, 9, 10
		(b)	region 7 except as follows:
			(i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County
			(ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.
(64)	spurge, myrtle *Euphorbia myrsinites L*	(a)	Pend Oreille County of region 4
		(b)	Along the Asotin, Grande Ronde, and Snake rivers and in all other areas that are not an actively cultivated garden in Asotin County of region 10.
(65)	starthistle, yellow *Centaurea solstitialis*	(a)	regions 1, 2, 3, 5, 6, 8
		(b)	region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25
		(c)	region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border
		(d)	Franklin County
		(e)	region 9 except Klickitat County
		(f)	lands west of Shumaker Grade and south of Mill Road in Asotin County.
(66)	Swainsonpea *Sphaerophysa salsula*	(a)	regions 1, 2, 3, 4, 5, 7, 8
		(b)	Columbia, Garfield, Asotin, and Franklin counties
		(c)	an area beginning at the Washington – Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington – Oregon border, then west along the Washington – Oregon border to the point of beginning
		(d)	Weed District No. 3 of Grant County
		(e)	Adams County of region 6.
(67)	thistle, musk *Carduus nutans*	(a)	regions 1, 2, 3, 5, 6, 7, 8, 9, 10
		(b)	Spokane and Pend Oreille counties.

	Name		Will be a "Class B designate" in all lands lying within:
~~(68)~~	~~thistle, plumeless *Carduus acanthoides*~~	~~(a)~~	~~regions 1, 2, 3, 5, 6, 7, 8, 9, 10~~
		~~(b)~~	~~region 4 except those areas within Stevens County lying north of State Highway 20.~~
~~(69)~~	~~thistle, Scotch *Onopordum acanthium*~~	~~(a)~~	~~regions 1, 2, 3, 4, 5, 6, 8, 9~~
		~~(b)~~	~~region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border~~
		~~(c)~~	~~Franklin County.~~
~~(70)~~	~~toadflax, Dalmatian *Linaria dalmatica ssp. dalmatica*~~	~~(a)~~	~~regions 1, 2, 5, 8, 10~~
		~~(b)~~	~~Douglas County of region 3 lying south of T25N and west of R25E~~
		~~(c)~~	~~Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E~~
		~~(d)~~	~~Kittitas, Chelan, Douglas, and Adams counties of region 6~~
		~~(e)~~	~~Intercounty Weed District No. 51~~
		~~(f)~~	~~Weed District No. 3 of Grant County~~
		~~(g)~~	~~Lincoln and Adams counties~~
		~~(h)~~	~~The western two miles of Spokane County of region 7~~
		~~(i)~~	~~region 9 except as follows:~~
			~~(i) those areas lying within Yakima County~~
			~~(ii) those areas lying west of the Klickitat River and within Klickitat County.~~
~~(71)~~	~~watermilfoil, Eurasian *Myriophyllum spicatum*~~	~~(a)~~	~~regions 1, 9, 10~~
		~~(b)~~	~~Okanogan and Chelan counties of region 3~~
		~~(c)~~	~~in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4~~
		~~(d)~~	~~Chelan and Adams counties of region 6~~
		~~(e)~~	~~region 7 except Spokane County~~
		~~(f)~~	~~region 8 except within 200 feet of the Columbia River.~~
~~(72)~~	~~willow-herb, hairy *Epilobium hirsutum*~~	~~(a)~~	~~regions 1, 3, 4~~
		~~(b)~~	~~region 2 except Whatcom and Island counties~~
		~~(c)~~	~~region 5 except Thurston County~~
		~~(d)~~	~~region 6 except Grant County~~
		~~(e)~~	~~region 7 except Whitman County~~
		~~(f)~~	~~region 8 except Skamania County~~
		~~(g)~~	~~Yakima County of region 9~~
		~~(h)~~	~~region 10 except Franklin and Walla Walla counties.~~))
(1)	blueweed, *Echium vulgare*	(a)	regions 1, 2, 3, 4, 6
		(b)	region 5, except Spokane County
(2)	brazilian elodea, *Egeria densa*	(a)	region 1, except Grays Harbor and Pacific counties
		(b)	region 2, except Kitsap and Snohomish counties

		(c)	King County of region 2, except lakes Dolloff, Fenwick, Union, Washington, and Sammamish, and the Sammamish River
		(d)	region 3, except Wahkiakum County
		(e)	regions 4, 5, and 6
(3)	bugloss, annual, *Anchusa arvensis*	(a)	regions 1, 2, 3, 4, and 6
		(b)	region 5, except Spokane County
(4)	bugloss, common, *Anchusa officinalis*	(a)	regions 1, 2, 3, 4, and 6
		(b)	region 5, except Spokane County
(5)	butterfly bush, *Buddleja davidii*	(a)	The portion of Thurston County lying below the ordinary high-water mark of the Nisqually River in region 2
		(b)	Cowlitz County of region 3
(6)	camelthorn, *alhagi maurorum*	(a)	regions 1, 2, 3, 4, and 5
		(b)	region 6, except Walla Walla County
(7)	common fennel, *Foeniculum vulgare*	(a)	region 1, except Jefferson County
		(b)	region 2, except King and Skagit counties
		(c)	region 3, except Clark County
		(d)	regions 4, 5, and 6
(8)	common reed, *Phragmites australis* (nonnative genotypes only)	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Grant County
		(c)	Asotin, Columbia, and Garfield counties of region 6
(9)	Dalmatian toadflax, *Linaria dalmatica ssp. dalmatica*	(a)	regions 1, 2, and 3
		(b)	Adams and Lincoln counties of region 5
		(c)	Benton and Walla Walla counties of region 6
(10)	Eurasian watermilfoil, *Myriophyllum spicatum*	(a)	region 1, except Pacific and Mason counties
		(b)	Island and San Juan counties of region 2
		(c)	Clark and Cowlitz counties of region 3
		(d)	Chelan and Okanogan counties of region 4
		(e)	Adams and Lincoln counties of region 5
		(f)	Asotin, Columbia, and Garfield counties of region 6
(11)	fanwort, *Cabomba caroliniana*	(a)	regions 2, 4, 5, and 6
		(b)	region 1, except Grays Harbor
		(c)	region 3, except Cowlitz County
(12)	gorse, *Ulex europaeus*	(a)	region 1, except Grays Harbor and Pacific counties
		(b)	regions 2, 3, 4, 5, 6
(13)	grass-leaved arrowhead, *Sagittaria graminea*	(a)	region 1, except Mason County
		(b)	region 2, except Snohomish County
		(c)	regions 3, 4, 5, and 6
(14)	hairy willow-herb, *Epilobium hirsutum*	(a)	regions 1 and 3
		(b)	region 2, except Thurston and Whatcom counties
		(c)	region 5, except Klickitat County
		(d)	Asotin, Columbia, and Garfield counties of region 6
(15)	hawkweed oxtongue, *Picris hieraciodes*	(a)	regions 1, 2, 4, 5, and 6
		(b)	region 3, except Skamania County
(16)	hawkweed, mouseear, *Hieracium pilosella*	(a)	region 1, except Grays Harbor County
		(b)	region 2, except Pierce and Thurston counties
		(c)	region 3, except Lewis County

		(d)	regions 4 and 6
		(e)	region 5, except Klickitat County
(17)	hawkweed, orange, *Hieracium aurantiacum*	(a)	regions 1, 3, and 6
		(b)	region 2, except Whatcom County
		(c)	region 4, except Pend Oreille and Stevens counties
		(d)	region 5, except Kittitas and Spokane counties
(18)	hawkweed, queen-devil, *Hieracium glomeratum*	(a)	regions 1, 2, 3, 5, and 6
		(b)	region 4, except Pend Oreille and Stevens counties
(19)	hawkweed, smooth, *Hieracium laevigatum*	(a)	regions 1, 3, 5, and 6
		(b)	region 2, except Skagit and Whatcom counties
		(c)	region 4, except Pend Oreille and Stevens counties
(20)	hawkweed, tall, *Hieracium piloselloides*	(a)	regions 1, 2, 3, 5, and 6
		(b)	region 4, except Pend Oreille and Stevens counties
(21)	hawkweed, yellow, *Hieracium caespitosum*	(a)	region 1, except Pacific County
		(b)	regions 2 and 6
		(c)	region 3, except Cowlitz County
		(d)	region 4, except Pend Oreille and Stevens counties
		(e)	region 5, except Klickitat and Spokane counties
(22)	herb-Robert, *Geranium robertianum*		regions 4, 5, and 6
(23)	hoary alyssum, *Berteroa incana*	(a)	regions 1, 2, 3, and 6
		(b)	All areas south of highway 20 in Ferry County of region 4
		(c)	All areas in Okanogan County of region 4, except Ranges 29-31 East of Townships 37-40 North
		(d)	region 5, except Klickitat County
(24)	houndstongue, *Cynoglossum officinale*	(a)	regions 1, 2, and 3
		(b)	Chelan County of region 4
		(c)	Yakima, Grant and Adams counties of region 5
		(d)	Benton County of region 6
(25)	indigobush, *Amorpha fruticosa*	(a)	regions 1, 2, and 4
		(b)	Lewis and Skamania counties of region 3
		(c)	region 5, except Klickitat County
(26)	knapweed, black, *Centaurea nigra*		regions 1, 2, 3, 4, 5, and 6
(27)	knapweed, brown, *Centaurea jacea*		regions 1, 2, 3, 4, 5, and 6
(28)	knapweed, diffuse, *Centaurea diffusa*	(a)	region 1, except Mason County
		(b)	regions 2 and 3
		(c)	Adams County of region 5
(29)	knapweed, meadow, *Centaurea jacea x nigra*	(a)	regions 1 and 3
		(b)	region 2, except Pierce and Whatcom counties
		(c)	Thurston County of region 2, except below the ordinary high water mark of the Nisqually River
		(d)	region 4, except Pend Oreille County
		(e)	region 5, except Kittitas and Klickitat counties
		(f)	region 6, except Franklin and Walla Walla counties
(30)	knapweed, Russian, *Acroptilon repens*	(a)	regions 1, 2, and 3
		(b)	Ferry and Pend Oreille counties of region 4

		(c)	Lincoln, Spokane, and Whitman counties of region 5
		(d)	Adams County of region 5, except for the area west of Highway 17 and north of Highway 26
		(e)	Asotin and Garfield counties of region 6
(31)	knapweed, spotted, *Centaurea stoebe*	(a)	region 1, except Grays Harbor
		(b)	region 2, except Whatcom County
		(c)	region 3
		(d)	Ferry County of region 4
		(e)	Adams, Grant and Yakima counties of region 5
		(f)	region 6, except Columbia and Walla Walla counties
(32)	knotweed, Bohemian, *Polygonum x bohemicum*	(a)	Island County of region 2
		(b)	Cowlitz and Skamania counties of region 3
		(c)	region 4, except Pend Oreille and Stevens counties
		(d)	regions 5, except Whitman and Yakima counties
		(e)	region 6
(33)	knotweed, giant, *Polygonum sachalinense*	(a)	region 2, except King, Pierce, and Snohomish counties
		(b)	region 3, except Lewis County
		(c)	regions 4, 5, and 6
(34)	knotweed, Himalayan, *Polygonum polystachyum*	(a)	region 1, except Pacific County
		(b)	region 2, except King and Pierce counties
		(c)	Cowlitz, Lewis and Skamania counties of region 3
		(d)	region 4, except Stevens County
		(e)	regions 5 and 6
(35)	knotweed, Japanese, *Polygonum cuspidatum*	(a)	Island, San Juan, and Whatcom counties of region 2
		(b)	Cowlitz and Skamania counties of region 3
		(c)	region 4, except Okanogan and Stevens counties
		(d)	region 5, except Spokane County
		(e)	region 6
(36)	kochia, *Kochia scoparia*	(a)	regions 1, 2, and 3
		(b)	Stevens and Pend Oreille counties of region 4
		(c)	Adams County of region 5
(37)	loosestrife, garden, *Lysimachia vulgaris*		regions 1, 2, 3, 4, 5, 6
(38)	loosestrife, purple, *Lythrum salicaria*	(a)	Clallam and Jefferson counties of region 1
		(b)	region 2, except Kitsap, Pierce, Skagit, and Snohomish counties
		(c)	Clark, Lewis, and Skamania counties of region 3
		(d)	region 4, except Douglas County
		(e)	region 5, except Grant and Spokane counties
		(f)	Columbia, Garfield, and Walla Walla counties of region 6
(39)	loosestrife, wand, *Lythrum virgatum*	(a)	Clallam and Jefferson counties of region 1
		(b)	region 2, except Kitsap, Pierce, Skagit, and Snohomish counties
		(c)	Clark, Lewis, and Skamania counties of region 3
		(d)	region 4, except Douglas County
		(e)	region 5, except Grant and Spokane counties
		(f)	Columbia, Garfield, and Walla Walla counties of region 6

(40)	parrotfeather, *Myriophyllum aquaticum*	(a)	region 1, except Pacific County
		(b)	regions 2, 4, 5, and 6
		(c)	Clark and Skamania counties of region 3
(41)	perennial pepperweed, *Lepidium latifolium*	(a)	regions 1, 2, and 4
		(b)	region 3, except Clark and Cowlitz counties
		(c)	Kittitas, Lincoln and Spokane counties of region 5
		(d)	Columbia and Garfield counties of region 6
(42)	poison hemlock, *Conium maculatum*	(a)	Clallam, Mason, and Pacific counties of region 1
		(b)	region 2, except King, Skagit, and Whatcom counties
		(c)	Clark and Skamania counties of region 3
		(d)	Chelan and Pend Oreille counties of region 4
		(e)	Grant, Kittitas and Lincoln counties of region 5
(43)	policeman's helmet, *Impatiens glandulifera*	(a)	region 1, except Pacific County
		(b)	region 2, except Pierce, Thurston, and Whatcom counties
		(c)	region 3, except Clark County
		(d)	region 4, except Pend Oreille County
		(e)	regions 5 and 6
(44)	puncturevine, *Tribulus terrestris*	(a)	regions 1, 2, and 3
		(b)	Ferry, Pend Oreille, and Stevens counties of region 4
		(c)	region 5, except Grant, Klickitat, and Yakima counties
(45)	rush skeletonweed, *Chondrilla juncea*	(a)	regions 1 and 3
		(b)	region 2, except Kitsap County
		(c)	region 4, except all areas of Stevens County south of Township 29
		(d)	Kittitas and Yakima counties of region 5, and Adams County, except those areas lying east of Sage Road, the western border of Range 36
		(e)	Asotin County of region 6
(46)	saltcedar, *Tamarix ramosissima* (unless intentionally planted prior to 2004)	(a)	regions 1, 3, 4, and 5
		(b)	region 2, except King and Thurston counties
		(c)	region 6, except Benton and Franklin counties
(47)	Scotch broom, *Cytisus scoparius*	(a)	regions 4 and 6
		(b)	region 5, except Klickitat County
(48)	spurge laurel, *Daphne laureola*	(a)	region 1, except Clallam and Jefferson counties
		(b)	region 2, except King and Kitsap counties
		(c)	region 3, except Skamania County
		(d)	regions 4, 5, and 6
(49)	spurge, leafy, *Euphorbia esula*	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Spokane and Whitman counties
		(c)	region 6, except Columbia and Garfield counties
(50)	spurge, myrtle, *Euphorbia myrsinites*	(a)	regions 1, 3, 5, and 6
		(b)	region 2, except King, Kitsap, and Whatcom counties
		(c)	region 4, except Okanogan and Stevens counties
(51)	sulfur cinquefoil, *Potentilla recta*	(a)	region 1
		(b)	region 2, except Pierce and Thurston counties
		(c)	region 3, except Lewis and Skamania counties
		(d)	Adams, Grant, Lincoln, and Whitman counties of region 5
		(e)	region 6, except Asotin County

(52)	tansy ragwort, *Senecio jacobaea*	(a)	Island and San Juan counties of region 2
		(b)	Clark and Wahkiakum counties of region 3
		(c)	regions 4 and 6
		(d)	region 5, except Klickitat County
(53)	thistle, musk, *Carduus nutans*	(a)	regions 1, 2, 3, and 6
		(b)	region 4, except Douglas and Ferry counties
		(c)	region 5, except Kittitas County
(54)	thistle, plumeless, *Carduus acanthoides*	(a)	regions 1, 2, 3, 5, 6
		(b)	region 4, except Pend Oreille County and those areas north of State Highway 20 in Stevens County
(55)	thistle, Scotch, *Onopordum acanthium*	(a)	region 1, 2, and 3
		(b)	region 4, except Douglas County
		(c)	region 5, except Spokane and Whitman counties
(56)	water primrose, *Ludwigia hexapetala*	(a)	regions 1, 2, 4, 5, and 6
		(b)	region 3, except Cowlitz County
(57)	white bryony, *Bryonia alba*	(a)	regions 1, 2, 3, and 4
		(b)	region 5, except Whitman County
		(c)	Benton County of region 6
(58)	wild chervil, *Anthriscus sylvestris*	(a)	regions 1, 4, and 6
		(b)	region 2, except Whatcom County
		(c)	Wahkiakum and Lewis counties of region 3
		(d)	region 5, except Whitman County
(59)	yellow archangel, *Lamiastrum galeobdolon*	(a)	Clallam County of region 1
		(b)	San Juan, Skagit, and Whatcom counties of region 2
		(c)	Cowlitz, Skamania and Wahkiakum counties of region 3
		(d)	regions 4, 5, and 6
(60)	yellow floating heart, *Nymphoides peltata*	(a)	regions 1, 2, and 6
		(b)	region 3, except Cowlitz County
		(c)	region 4, except Stevens County
		(d)	region 5, except Spokane County
(61)	yellow nutsedge, *Cyperus esculentus*	(a)	regions 1, 3, and 4
		(b)	region 2, except Skagit and Thurston counties
		(c)	region 5, except Klickitat and Yakima Counties
		(d)	region 6, except Franklin and Walla Walla counties
(62)	yellow starthistle, *Centaurea solstitialis*	(a)	regions 1, 2, and 3
		(b)	region 4, except T36 R38 north of Hwy 395/Hwy 20 and west of Pingston Creek Road in Stevens County
		(c)	region 5, except Klickitat, and Whitman counties

AMENDATORY SECTION (Amending WSR 12-01-050, filed 12/15/11, effective 1/15/12)

WAC 16-750-015 State noxious weed list—Class C noxious weeds.

Common Name	Scientific Name
babysbreath	*Gypsophila paniculata*
((~~beard, old man's~~	~~*Clematis vitalba*~~
~~bindweed, field~~	~~*Convolvulus arvensis*~~
~~blackberry, evergreen~~	~~*Rubus laciniatus*~~
~~blackberry, Himalayan~~	~~*Rubus armeniacus*~~
~~canarygrass, reed~~	~~*Phalaris arundinacea*~~
~~cockle, white~~	~~*Silene latifolia ssp. alba*~~
~~cocklebur, spiny~~	~~*Xanthium spinosum*~~
~~cress, hoary~~	~~*Cardaria draba*~~
~~dodder, smoothseed alfalfa~~	~~*Cuscuta approximata*~~
~~eelgrass, Japanese (on commercially managed shellfish beds only)~~	~~*Zostera japonica*~~
~~goatgrass, jointed~~	~~*Aegilops cylindrica*~~
~~groundsel, common~~	~~*Senecio vulgaris*~~
~~hawkweed, common~~	~~*Hieracium lachenalii*~~

Common Name	Scientific Name
~~hawkweed, other nonnative species~~	~~*Hieracium sp.*, except species designated in the note in the left-hand column~~
~~**Note:**~~	
~~This listing includes all species of Hieracium, except the following:~~	
~~• Species designated as Class A noxious weeds in WAC 16-750-005;~~	
~~• Species designated as Class B noxious weeds in WAC 16-750-011;~~	
~~• Native species designated below:~~	
~~– Canada hawkweed (H. canadense)~~	
~~– houndstongue hawkweed (H. cynoglossoides)~~	
~~– long-beaked hawkweed (H. longiberbe)~~	
~~– narrow-leaved hawkweed (H. umbellatum)~~	
~~– slender hawkweed (H. gracile)~~	
~~– western hawkweed (H. albertinum)~~	
~~– white-flowered hawkweed (H. albiflorum)~~	
~~– woolley-weed (H. scouleri)~~	
~~henbane, black~~	~~*Hyoscyamus niger*~~
~~iris, yellow flag~~	~~*Iris pseudacorus*~~
~~ivy, English, 4 cultivars only:~~	~~*Hedera hibernica 'Hibernicia'*~~
	~~*Hedera helix 'Baltica'*~~
	~~*Hedera helix 'Pittsburgh'*~~
	~~*Hedera helix 'Star'*~~
~~mayweed, scentless~~	~~*Matricaria perforata*~~
~~pondweed, curly-leaf~~	~~*Potamogeton crispus*~~
~~rye, cereal~~	~~*Secale cereale*~~
~~spikeweed~~	~~*Hemizonia pungens*~~
~~St. Johnswort, common~~	~~*Hypericum perforatum*~~
~~tansy, common~~	~~*Tanacetum vulgare*~~
~~thistle, bull~~	~~*Cirsium vulgare*~~
~~thistle, Canada~~	~~*Cirsium arvense*~~
~~toadflax, yellow~~	~~*Linaria vulgaris*~~
~~tree-of-heaven~~	~~*Ailanthus altissima*~~
~~water lily, fragrant~~	~~*Nymphaea odorata*~~
~~whitetop, hairy~~	~~*Cardaria pubescens*~~
~~wormwood, absinth~~	~~*Artemisia absinthium*~~))
absinth wormwood	*Artemisia absinthium*
Austrian fieldcress	*Rorippa austriaca*
black henbane	*Hyoscyamus niger*
blackberry, evergreen	*Rubus laciniatus*
blackberry, Himalayan	*Rubus armeniacus*
blackgrass	*Alopecurus myosuroides*
cereal rye	*Secale cereale*
common barberry	*Berberis vulgaris*
common catsear	*Hypochaeris radicata*
common groundsel	*Senecio vulgaris*
common St. Johnswort	*Hypericum perforatum*
common tansy	*Tanacetum vulgare*
common teasel	*Dipsacus fullonum*
curly-leaf pondweed	*Potamogeton crispus*
English ivy 4 cultivars only:	*Hedera hibernica* 'Hibernica'
	Hedera helix 'Baltica'
	Hedera helix 'Pittsburgh'
	Hedera helix 'Star'
field bindweed	*Convolvulus arvensis*
fragrant water lily	*Nymphaea odorata*
hairy whitetop	*Cardaria pubescens*
hawkweed, common	*Hieracium lachenalii*
hawkweed, polar	*Hieracium atratum*
hawkweed, other nonnative species	*Hieracium spp*., except species designated in the note in the left-hand column
Note:	
This listing includes all species of *Hieracium*, except the following:	
• Species designated as Class A noxious weeds in WAC 16-750-005;	
• Species designated as Class B noxious weeds in WAC 16-750-011;	
• Native species designated below:	
– Canada hawkweed *(H. canadense*)	
– houndstongue hawkweed (*H. cynoglossoides*)	
– long-beaked hawkweed (*H. longiberbe*)	
– narrow-leaved hawkweed (*H. umbellatum*)	
– slender hawkweed (*H. gracile*)	
– western hawkweed (*H. albertinum*)	
– white-flowered hawkweed (*H. albiflorum*)	
– woolley-weed (*H. scouleri*)	
hoary cress	*Cardaria draba*
Japanese eelgrass (on commercially managed shellfish beds only)	*Zostera japonica*
jointed goatgrass	*Aegilops cylindrica*

lawnweed	*Soliva sessilis*
lepyrodiclis	*Lepyrodiclis holosteoides*
longspine sandbur	*Cenchrus longispinus*
old man's beard	*Clematis vitalba*
oxeye daisy	*Leucanthemum vulgare*
perennial sowthistle	*Sonchus arvensis ssp. arvensis*
reed canarygrass	*Phalaris arundinacea*
scentless mayweed	*Matricaria perforata*
smoothseed alfalfa dodder	*Cuscuta approximata*
spikeweed	*Hemizonia pungens*
spiny cocklebur	*Xanthium spinosum*
Swainsonpea	*Sphaerophysa salsula*
thistle, bull	*Cirsium vulgare*
thistle, Canada	*Cirsium arvense*
tree-of-heaven	*Ailanthus altissima*
white cockle	*Silene latifolia ssp. alba*
wild carrot (except where commercially grown)	*Daucus carota*
yellow flag iris	*Iris pseudacorus*
yellow toadflax	*Linaria vulgaris*

WSR 12-20-083
PROPOSED RULES
STATE BOARD OF HEALTH

[Filed October 3, 2012, 11:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-15-080.

Title of Rule and Other Identifying Information: WAC 246-100-207 (1)(a), human immunodeficiency virus (HIV) testing. Amending the rule to help emphasize that consent of an individual for an HIV test may be obtained either verbally or in writing.

Hearing Location(s): Washington State Capitol Campus, John A. Cherberg Building, Senate Hearing Room 3, on November 14, 2012, at 1:30 p.m.

Date of Intended Adoption: November 14, 2012.

Submit Written Comments to: Maria Courogen, Department of Health, Office of Infectious Disease, P.O. Box 47844, Olympia, WA 98504-7844, e-mail http://www3.doh.wa.gov/policyreview/, fax (360) 586-5440, by October 31, 2012.

Assistance for Persons with Disabilities: Contact Desiree Robinson by November 1, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Consistent with RCW 70.24.330, the proposed rule shortens the term "informed consent" to "consent" in order to emphasize that, for purposes of this rule, consent may be obtained either verbally or in writing. The rule is not intended to affect a health practitioner's duty regarding patient consent, but to help protect public health by reducing barriers to testing.

Reasons Supporting Proposal: The amendment to the rule eliminates confusing language and emphasizes that consent for an HIV test may be obtained either verbally or in writing. The rule clarification will help reduce barriers to testing in order to increase testing rates. The change will also assure the rule is consistent with CDC recommendations for HIV testing, HIV and sexually transmitted disease partner services.

Statutory Authority for Adoption: RCW 70.24.380.

Statute Being Implemented: RCW 70.24.380.

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

Name of Proponent: Board of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Maria Courogen, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-3458.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(d), a small business economic impact statement is not required for proposed rules that only correct typographical errors, make address or name changes, or clarify the language of a rule without changing its effect.

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)(iv) exempts rules that only correct typographical errors, make address or name changes or clarify the language of a rule without changing its effect.

October 3, 2012
Michelle Davis
Executive Director

AMENDATORY SECTION (Amending WSR 10-01-082, filed 12/15/09, effective 1/15/10)

WAC 246-100-207 Human immunodeficiency virus (HIV) testing—Ordering—Laboratory screening—Interpretation—Reporting. (1) Except for persons conducting seroprevalent studies under chapter 70.24 RCW, or ordering or prescribing an HIV test for another individual under subsections (4) and (5) of this section or under WAC 246-100-208(1), any person ordering or prescribing an HIV test for another individual, shall:

(a) Obtain the ((~~informed~~)) consent of the individual, separately or as part of the consent for a battery of other routine tests provided that the individual is specifically informed verbally or in writing that a test for HIV is included; and

(b) Offer the individual an opportunity to ask questions and decline testing; and

(c) If the HIV test is positive for or suggestive of HIV infection, provide the name of the individual and locating information to the local health officer for follow-up to provide post-test counseling as required by WAC 246-100-209.

(2) The local and state health officer or authorized representative shall periodically make efforts to inform providers in their respective jurisdiction about the September 2006 Centers for Disease Control and Prevention "*Revised Recom-*

mendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings."

(3) Health care providers may obtain a sample brochure about the September 2006 Centers for Disease Control and Prevention "*Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Healthcare Settings*" by contacting the department's HIV prevention program at P.O. Box 47840, Olympia, WA 98504.

(4) Any person authorized to order or prescribe an HIV test for another individual may offer anonymous HIV testing without restriction.

(5) Blood banks, tissue banks, and others collecting or processing blood, sperm, tissues, or organs for transfusion/transplanting shall:

(a) Obtain or ensure informed specific consent of the individual prior to ordering or prescribing an HIV test, unless excepted under provisions in chapter 70.24 RCW;

(b) Explain that the reason for HIV testing is to prevent contamination of the blood supply, tissue, or organ bank donations;

(c) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session; and

(d) Inform the individual that the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer.

(6) Persons subject to regulation under Title 48 RCW and requesting an insured, subscriber, or potential insured or subscriber to furnish the results of an HIV test for underwriting purposes, as a condition for obtaining or renewing coverage under an insurance contract, health care service contract, or health maintenance organization agreement shall:

(a) Before obtaining a specimen to perform an HIV test, provide written information to the individual tested explaining:

(i) What an HIV test is;

(ii) Behaviors placing a person at risk for HIV infection;

(iii) The purpose of HIV testing in this setting is to determine eligibility for coverage;

(iv) The potential risks of HIV testing; and

(v) Where to obtain HIV pretest counseling.

(b) Obtain informed specific written consent for an HIV test. The written informed consent shall include:

(i) An explanation of confidential treatment of test result reports limited to persons involved in handling or determining applications for coverage or claims for the applicant or claimant; and

(ii) That the name of the individual testing positive for HIV infection will be confidentially reported to the state or local health officer; and

(iii) At the time of notification regarding a positive HIV test, provide or ensure at least one individual counseling session.

(c) Establish procedures to inform an applicant of the following:

(i) Post-test counseling specified under WAC 246-100-209 is required if an HIV test is positive or indeterminate;

(ii) Post-test counseling is done at the time any positive or indeterminate HIV test result is given to the tested individual;

(iii) The applicant is required to designate a health care provider or health care agency to whom positive or indeterminate HIV test results are to be provided for interpretation and post-test counseling; and

(iv) When an individual applicant does not identify a designated health care provider or health care agency and the applicant's HIV test results are positive or indeterminate, the insurer, health care service contractor, or health maintenance organization shall provide the test results to the state or local health department for interpretation and post-test counseling.

(7) Laboratories and other places where HIV testing is performed must demonstrate compliance with all of the requirements in the Medical test site rules, chapter 246-338 WAC.

(8) The department laboratory quality assurance section shall accept substitutions for enzyme immunoassay (EIA) screening only as approved by the United States Food and Drug Administration (FDA) and a published list or other written FDA communication.

(9) Persons informing a tested individual of positive laboratory test results indicating HIV infection shall do so only when:

(a) The test or sequence of tests has been approved by the FDA or the Federal Centers for Disease Control and Prevention as a confirmed positive test result; and

(b) Such information consists of relevant facts communicated in such a way that it will be readily understood by the recipient.

(10) Persons may inform a tested individual of the unconfirmed reactive results of an FDA-approved rapid HIV test provided the test result is interpreted as preliminarily positive for HIV antibodies, and the tested individual is informed that:

(a) Further testing is necessary to confirm the reactive screening test result;

(b) The meaning of reactive screening test result is explained in simple terms, avoiding technical jargon;

(c) The importance of confirmatory testing is emphasized and a return visit for confirmatory test results is scheduled; and

(d) The importance of taking precautions to prevent transmitting infection to others while awaiting results of confirmatory testing is stressed.