

WSR 20-19-079
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed September 15, 2020, 3:23 p.m., effective October 16, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To implement the Washington prescription drug pricing transparency program as required under chapter 43.71C RCW.

Citation of Rules Affected by this Order: New WAC 182-51-0050, 182-51-0100, 182-51-0200, 182-51-0300, 182-51-0400, 182-51-0500, 182-51-0600, 182-51-0700, 182-51-0800, 182-51-0900, 182-51-1000, 182-51-1100, 182-51-1200, 182-51-1300, 182-51-1400, 182-51-1500, 182-51-1600, 182-51-1700, and 182-51-1800.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160; and ESSHB [E2SHB] 1224, chapter 334, Laws of 2019.

Adopted under notice filed as WSR 20-15-146 on July 21, 2020.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-0050(3)		
Proposed	(3) Reporting entities must comply with the authority's processes for submitting data as outlined in the authority's data submission guides as published on the authority's website.	To clarify in rule the function of the data submission guides.
Adopted	(3) Reporting entities must comply with the authority's processes for submitting data as outlined in the authority's data submission guides as published on the authority's website. <u>The authority publishes a data submission guide to the authority's website, detailing the data elements to report as required by chapter 43.71C RCW, and how to submit the data.</u>	
WAC 182-51-0100 new subsection (3)		
Proposed	N/A	To clarify what the health care authority (HCA) means by this term as it is used in this chapter. Because of this addition, the subsequent subsections were renumbered.
Adopted	(3) <u>"Calendar year" means the period from January 1 to December 31 of each year.</u> (4) "Covered drug" means ...	
WAC 182-51-0100 (3)(a)		
Proposed	(3)(a) A covered manufacturer intends to introduce to the market at a wholesale acquisition cost of ten thousand dollars or more for a course of treatment lasting less than one month or a thirty-day supply, whichever period is longer; or	To clarify that the introduction to market is in Washington state.
Adopted	(4) (4)(a) A covered manufacturer intends to introduce to the market in <u>Washington state</u> at a wholesale acquisition cost of ten thousand dollars or more for a course of treatment lasting less than one month or a thirty-day supply, whichever period is longer; or	
WAC 182-51-0100 (3)(b)(i)		
Proposed	(3)(b) Meets all of the following: (i) Is currently on the market;	To clarify that the introduction to market is in Washington state.
Adopted	(4) (4)(b) Meets all of the following: (i) Is currently on the market <u>in Washington state</u> ;	
WAC 182-51-0100 (3)(b)(iii)		

Proposed/ Adopted	WAC Subsection	Reason
Proposed	(3)(b)(iii) Has a wholesale acquisition cost of more than one hundred dollars for a course of treatment lasting less than one month or a thirty-day supply, and, taking into account only price increases that take effect after July 28, 2019, the manufacturer increases the wholesale acquisition cost at least: (A) Twenty percent, including the proposed increase and the cumulative increase over one calendar year before the date of the proposed increase; or (B) Fifty percent, including the proposed increase and the cumulative increase over three calendar years before the date of the proposed increase.	To more clearly define what HCA means by "covered drug" in regards to its new wholesale acquisition cost.
Adopted	(3) (4)(b)(iii) Has a wholesale acquisition cost of more than one hundred dollars for a course of treatment lasting less than one month or a thirty-day supply, and, taking into account only price increases that take effect after July 28, 2019, the manufacturer increases the wholesale acquisition cost <u>at least such that</u> : (A) <u>The new wholesale acquisition cost is twenty percent, including the proposed increase and the cumulative increase over one calendar year higher than the wholesale acquisition cost on the same day of the month, twelve months</u> before the date of the proposed increase; or (B) <u>The new wholesale acquisition cost is fifty percent, including the proposed increase and the cumulative increase over three calendar years higher than the wholesale acquisition cost on the same day of the month, thirty-six months</u> before the date of the proposed increase.	
WAC 182-51-0100(7)		
Proposed	(7) "Data submission guide" means the document that contains the required data, required format, and instructions on submitting the data to be reported to the authority for each submitter type.	To more clearly define the data submission guides as instructional documents that only provide guidance to reporting entities.
Adopted	(7) (8) "Data submission guide" means the document that contains the required data, required format, and instructions on submitting the data to be reported to the authority for each submitter type <u>identifies the data required under chapter 43.71C RCW, and provides instructions for submitting this data to the authority, including guidance on required format for reporting, for each reporting entity.</u>	
WAC 182-51-0100(10)		
Proposed	(10) "Introduced to market" means made available for purchase in Washington state.	To remove the implication that "introduced to market" means available for purchase.
Adopted	(10) (11) "Introduced to market" means made available for purchase marketed <u>in</u> Washington state.	
WAC 182-51-0100(11)		
Proposed	(11) "New drug" means a drug for which a manufacturer is seeking initial approval under an original new drug application under 21 U.S.C. Sec. 355(b), under an abbreviated new drug application under 21 U.S.C. Sec. 355(j), or under a biologics license application under 42 U.S.C. Sec. 262. Each product listed on the application must be considered a new drug for purposes of reporting according to RCW 43.71C.060.	HCA removed the definition of "new drug" and replaced it with a definition of "pipeline drug" to better align with statute. The subsection was moved to maintain alphabetical order.

Proposed/ Adopted	WAC Subsection	Reason
Adopted	<p>(11) "New drug" means a drug for which a manufacturer is seeking initial approval under an original new drug application under 21 U.S.C. Sec. 355(b), under an abbreviated new drug application under 21 U.S.C. Sec. 355(j), or under a biologics license application under 42 U.S.C. Sec. 262. Each product listed on the application must be considered a new drug for purposes of reporting according to RCW 43.71C.060.</p> <p><u>(14) "Pipeline drug" means a drug or biologic product containing a new molecular entity, not yet approved by the Food and Drug Administration, for which a manufacturer intends to seek initial approval from the Food and Drug Administration under an original new drug application under 21 U.S.C. Sec. 355(b) or under a biologics license application under 42 U.S.C. Sec. 262 to be marketed in Washington state.</u></p>	
WAC 182-51-0100(14)		
Proposed	(14) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW, including generic, brand name, specialty drugs, and biological products that are prescribed for outpatient use and distributed in a retail setting.	To improve clarity, HCA moved the clause "that are prescribed for outpatient use and distributed in a retail setting."
Adopted	(14) <u>(15) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW that is prescribed for outpatient use and distributed in a retail setting,</u> including generic, brand name, specialty drugs, and biological products that are prescribed for outpatient use and distributed in a retail setting.	
WAC 182-51-0100(17)		
Proposed	(17) "Rebate" means negotiated price concessions, discounts, refunds or revenue, however characterized, that accrue directly or indirectly to a reporting entity in connection with utilization of prescription drugs by reporting entity members including, but not limited to, rebates, administrative fees, market share rebates, price protection rebates, performance-based price concessions, volume-related rebates or refunds, other credits, and any other negotiated price concessions or discounts that are reasonably anticipated to be passed through to a reporting entity during a coverage year, and any other form of price concession prearranged with a covered manufacturer, dispensing pharmacy, pharmacy benefit manager, rebate aggregator, group purchasing organization, or other party which are paid to a reporting entity and are directly attributable to the utilization of certain drugs by reporting entity members.	To remove any association between rebates and refunds or revenue from the definition.
Adopted	(17) <u>(18) "Rebate" means negotiated price concessions, discounts, refunds or revenue,</u> however characterized, that accrue directly or indirectly to a reporting entity in connection with utilization of prescription drugs by reporting entity members including, but not limited to, rebates, administrative fees, market share rebates, price protection rebates, performance-based price concessions, volume-related rebates or refunds, other credits, and any other negotiated price concessions or discounts that are reasonably anticipated to be passed through to a reporting entity during a coverage year, and any other form of price concession prearranged with a covered manufacturer, dispensing pharmacy, pharmacy benefit manager, rebate aggregator, group purchasing organization, or other party which are paid to a reporting entity and are directly attributable to the utilization of certain drugs by reporting entity members.	

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-0200(3)		
Proposed	(3) Failure to register and provide or maintain accurate contact information with the authority may result in a reporting entity's inability to submit required data in compliance with this chapter and may result in fines as described in WAC 182-51-1100.	To remove reference to punitive action being taken for failing to maintain accurate contact information.
Adopted	(3) Failure to register and provide or maintain accurate contact information with the authority may result in a reporting entity's inability to submit required data in compliance with this chapter and may result in fines as described in WAC 182-51-1100.	
WAC 182-51-0300(1)		
Proposed	(1) No later than October 1st of each year, a health carrier must submit to the authority the prescription drug cost and utilization data for one or more previous calendar years for each health plan it offered in the state in the required format in accordance with the authority's applicable data submission guide.	To clarify the time periods reporting entities are required to submit data and to clarify that the data submission guides are only guidelines for submitting data.
Adopted	(1) No later than October 1st of each year <u>16, 2020</u> , a health carrier must submit to the authority the prescription drug cost and utilization data for one or more previous calendar years <u>calendar years 2018 and 2019</u> , for each health plan it offered in the Washington state <u>in calendar years 2018 and 2019, following the guidelines set in the required format in accordance with the</u> authority's applicable data submission guide.	
WAC 182-51-0300 new subsection (2)		
Proposed	N/A	To clarify reporting deadlines for reporting entities. The subsections were renumbered to compensate for the new subsection.
Adopted	(2) <u>Beginning October 1, 2021, and no later than October 1st annually thereafter, a health carrier must submit to the authority the prescription drug cost and utilization data for the previous calendar year for each health plan it offered in Washington state, following the guidelines set in the authority's applicable data submission guide.</u> (3) A carrier may voluntarily submit ...	
WAC 182-51-0300(3)		
Proposed	(3) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51-1000.	To fix an erroneous cross-reference.
Adopted	(3) (4) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51- 1000 <u>1100</u> .	
WAC 182-51-0400(1)		
Proposed	(1) No later than March 1st of each year, a pharmacy benefit manager must submit to the authority all data specified in RCW 43.71C.030 in the required format in accordance with the authority's applicable data submission guide.	To clarify that the data submission guides are only guidelines for submitting data.
Adopted	(1) No later than March 1st of each year, a pharmacy benefit manager must submit to the authority all data specified in RCW 43.71C.030 in the required format in accordance with, <u>following the guidelines set in the authority's applicable data submission guide.</u>	

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-0400 new subsection (4)		
Proposed	N/A	
Adopted	<p>(4) The information submitted according to this section is not subject to public disclosure under chapter 42.56 RCW.</p> <p>(5) The agency may assess fines for not complying with the requirements in this section. See WAC 182-51-1000<u>1100</u>.</p>	<p>To clarify that the information submitted according to this section is not subject to public disclosure. The proposed subsection (4) was renumbered to subsection (5) to compensate for the new subsection. HCA also corrected an erroneous cross-reference in newly numbered subsection (5).</p>
WAC 182-51-0600(1)		
Proposed	<p>(1) On or before October 1, 2020, a covered manufacturer must submit to the authority all data specified in RCW 43.71C.050 and 43.71C.070 in accordance with the applicable data submission guide for each covered drug as the drug existed between July 28, 2019, and December 31, 2020.</p>	<p>To change reporting deadlines for reporting entities and to clarify that the data submission guides are only guidelines for submitting data.</p>
Adopted	<p>(1) On or before October 1 <u>December 31</u>, 2020, a covered manufacturer must submit to the authority all data specified in RCW 43.71C.050 and 43.71C.070 in accordance with, <u>following the guidelines set in the authority's applicable data submission guide</u> for each covered drug as the drug existed and including July 28, 2019, and December 31 <u>August 17</u>, 2020.</p>	
WAC 182-51-0600(2)		
Proposed	<p>(2) Beginning October 1, 2020, and monthly thereafter, a covered manufacturer must submit to the authority all data specified in RCW 43.71C.050 and 43.71C.070 in accordance with the applicable data submission guide, for each covered drug as follows:</p> <p>(a) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between January 1st and January 31st, inclusive, is due by November 30th of the prior year;</p> <p>(b) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between February 1st and February 28th, or in a leap year February 29th, inclusive, is due by December 31st of the prior year;</p> <p>(c) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between March 1st and March 31st, inclusive, is due by January 31st of the same year;</p> <p>(d) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between April 1st and April 30th, inclusive, is due by February 28th, or in a leap year February 29th, of the same year;</p> <p>(e) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between May 1st and May 31st, inclusive, is due by March 31st of the same year;</p> <p>(f) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between June 1st and June 30th, inclusive, is due by April 30th of the same year;</p> <p>(g) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between July 1st and July 31st, inclusive, is due by May 31st of the same year;</p>	<p>To clarify reporting deadlines for reporting entities, specifically for reporting new covered drugs and qualifying price increases for covered drugs. HCA also clarified that the data submission guides are only guidelines for submitting data.</p>

Proposed/ Adopted	WAC Subsection	Reason
	<p>(h) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between August 1st and August 31st, inclusive, is due by June 30th of the same year;</p> <p>(i) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between September 1st and September 30th, inclusive, is due by July 31st of the same year;</p> <p>(j) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between October 1st and October 31st, inclusive, is due by August 31st of the same year;</p> <p>(k) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between November 1st and November 30th, inclusive, is due by September 30th of the same year; and</p> <p>(l) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between December 1st and December 31st, inclusive, is due by October 31st of the same year.</p>	
Adopted	<p>(2) Beginning October 16, 2020, and monthly thereafter, a covered manufacturer must submit to the authority all data specified in RCW 43.71C.050 and 43.71C.070 in accordance with, following the guidelines set in the authority's applicable data submission guide, for each covered drug as follows:</p> <p>(a) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between January 1st and January 31st, inclusive, is due by November 30th of the prior year <u>Sixty days in advance of a qualifying prices increase for a covered drug marketed in Washington state;</u> or;</p> <p>(b) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between February 1st and February 28th, or in a leap year February 29th, inclusive, is due by December 31st of the prior year; <u>Thirty days in advance of a new covered drug's introduction to market in Washington state.</u></p> <p>(c) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between March 1st and March 31st, inclusive, is due by January 31st of the same year;</p> <p>(d) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between April 1st and April 30th, inclusive, is due by February 28th, or in a leap year February 29th, of the same year;</p> <p>(e) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between May 1st and May 31st, inclusive, is due by March 31st of the same year;</p> <p>(f) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between June 1st and June 30th, inclusive, is due by April 30th of the same year;</p> <p>(g) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between July 1st and July 31st, inclusive, is due by May 31st of the same year;</p> <p>(h) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between August 1st and August 31st, inclusive, is due by June 30th of the same year;</p> <p>(i) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between September 1st and September 30th, inclusive, is due by July 31st of the same year;</p>	

Proposed/ Adopted	WAC Subsection	Reason
	<p>(j) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between October 1st and October 31st, inclusive, is due by August 31st of the same year;</p> <p>(k) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between November 1st and November 30th, inclusive, is due by September 30th of the same year; and</p> <p>(l) Each report related to a covered drug introduced to market or a qualifying price increase with an effective date between December 1st and December 31st, inclusive, is due by October 31st of the same year.</p>	
WAC 182-51-0600 new subsection (3)		
Proposed	N/A	
Adopted	<p>(3) <u>For any drug approved under section 505(j) of the federal Food, Drug, and Cosmetic Act as it existed on August 18, 2020, or a biosimilar approved under section 351(k) of the federal public health service act as it existed on August 18, 2020, if submitting data in accordance with subsection 2(a) of this section is not possible sixty days before the price increase; or if submitting data in accordance with subsection 2(b) of this section is not possible thirty days before the introduction to market, that submission must be made as soon as known but no later than the date of the price increase or introduction to market.</u></p> <p>(4) The information submitted ...</p>	<p>To allow for the possibility that reporting entities may not be able to report the information required in this section and to give guidelines surrounding that possibility. The proposed subsection (3) was renumbered to subsection (4) to compensate for the new subsection.</p>
WAC 182-51-0600(4)		
Proposed	(4) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51-1000.	To correct an erroneous cross-reference.
Adopted	(4) (5) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51- 1000 1100.	
WAC 182-51-0700 caption and subsection (1)		
Proposed	WAC 182-51-0700 Manufacturers—Notice of new drug applications. (1) On or before October 1, 2020, a manufacturer must submit to the authority all data specified in RCW 43.71C.060(1) in accordance with the applicable data submission guide for all new drug applications or biologic license applications submitted on or after October 1, 2019, through September 30, 2020, for which the manufacturer has received an FDA approval date.	To change reporting deadlines for reporting entities and to clarify that the data submission guides are only guidelines for submitting data. HCA also clarified that this section pertains to biologic license applications.
Adopted	WAC 182-51-0700 Manufacturers—Notice of new drug applications and biologic license applications. (1) On or before October 1 December 31, 2020, a manufacturer must submit to the authority all data specified in RCW 43.71C.060(1) in accordance with, following the guidelines set in the authority's applicable data submission guide for all new drug applications or biologic license applications for pipeline drugs submitted on or after October 1, 2019, through September 30 October 15, 2020, for which the manufacturer has received an FDA approval date.	
WAC 182-51-0700(2)		
Proposed	(2) Beginning October 1, 2020, a manufacturer must submit to the authority all data specified in RCW 43.71C.060(1) in accordance with the applicable data submission guide for all new drug applications or biologic license applications submitted on or after October 1, 2020, within sixty calendar days of the manufacturer receiving the FDA approval date as follows: (a) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between January 1st and January 31st, inclusive, is due by November 30th of the prior year;	To clarify reporting deadlines for reporting entities and to clarify that the data submission guides are only guidelines for submitting data.

Proposed/ Adopted	WAC Subsection	Reason
	<p>(b) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between February 1st and February 28th, or in a leap year February 29th, inclusive, is due by December 31st of the prior year;</p> <p>(c) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between March 1st and March 31st, inclusive, is due by January 31st of the same year;</p> <p>(d) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between April 1st and April 30th, inclusive, is due by February 28th, or in a leap year February 29th, of the same year;</p> <p>(e) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between May 1st and May 31st, inclusive, is due by March 31st of the same year;</p> <p>(f) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between June 1st and June 30th, inclusive, is due by April 30th of the same year;</p> <p>(g) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between July 1st and July 31st, inclusive, is due by May 31st of the same year;</p> <p>(h) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between August 1st and August 31st, inclusive, is due by June 30th of the same year;</p> <p>(i) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between September 1st and September 30th, inclusive, is due by July 31st of the same year;</p> <p>(j) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between October 1st and October 31st, inclusive, is due by August 31st of the same year;</p> <p>(k) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between November 1st and November 30th, inclusive, is due by September 30th of the same year; and</p> <p>(l) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between December 1st and December 31st, inclusive, is due by October 31st of the same year.</p>	
Adopted	<p>(2) Beginning October 16, 2020, a manufacturer must submit to the authority all data specified in RCW 43.71C.060(1) in accordance with, <u>following the guidelines set in the authority's</u> applicable data submission guide for all new drug applications or biologic license applications <u>for pipeline drugs</u> submitted on or after October 16, 2020, within sixty calendar days of the manufacturer receiving the FDA approval date. as follows:</p> <p>(a) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between January 1st and January 31st, inclusive, is due by November 30th of the prior year;</p> <p>(b) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between February 1st and February 28th, or in a leap year February 29th, inclusive, is due by December 31st of the prior year;</p> <p>(c) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between March 1st and March 31st, inclusive, is due by January 31st of the same year;</p>	

Proposed/ Adopted	WAC Subsection	Reason
	<p>(d) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between April 1st and April 30th, inclusive, is due by February 28th, or in a leap year February 29th, of the same year;</p> <p>(e) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between May 1st and May 31st, inclusive, is due by March 31st of the same year;</p> <p>(f) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between June 1st and June 30th, inclusive, is due by April 30th of the same year;</p> <p>(g) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between July 1st and July 31st, inclusive, is due by May 31st of the same year;</p> <p>(h) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between August 1st and August 31st, inclusive, is due by June 30th of the same year;</p> <p>(i) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between September 1st and September 30th, inclusive, is due by July 31st of the same year;</p> <p>(j) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between October 1st and October 31st, inclusive, is due by August 31st of the same year;</p> <p>(k) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between November 1st and November 30th, inclusive, is due by September 30th of the same year; and</p> <p>(l) All new drug applications or biologic license applications for which the manufacturer has received an FDA approval date between December 1st and December 31st, inclusive, is due by October 31st of the same year.</p>	
WAC 182-51-0700 new subsection (3)		
Proposed	N/A	
Adopted	<p>(3) <u>The authority considers fifty thousand dollars per biennium to be a significant impact on state expenditures. Reporting entities may anticipate a request for additional information per RCW 43.71C.060(3) from the authority for products expected to exceed fifty thousand dollars per biennium. To improve efficiency in reporting, manufacturers who submit a new drug application or a biologics license application for a pipeline drug or a biologics license application for a biological product that is expected to cost the state more than fifty thousand dollars per biennium may submit the data elements in RCW 43.71C.060(3) at the same time they submit the notice of the new drug application.</u></p> <p>(4) A manufacturer may limit ...</p>	<p>To clarify in rule how HCA determines when a new drug has the potential to have a significant impact on state expenditures.</p> <p>The proposed subsection (4) was renumbered to subsection (5) to compensate for the new subsection.</p>
WAC 182-51-0700(4)		
Proposed	(4) The agency may assess fines for not complying with the requirements in this section. See WAC 182-51-1000.	To correct an erroneous cross-reference.
Adopted	(4) (5) The agency may assess fines for not complying with the requirements in this section. See WAC 182-51-1000 1100 .	

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-0800(1)		
Proposed	(1) No later than October 1st of each year, a pharmacy services administrative organization representing a pharmacy or pharmacy chain in the state must submit to the authority the data specified in RCW 43.71C.080 following the guidelines set in the authority's applicable data submission guide.	To clarify reporting deadlines for reporting entities.
Adopted	(1) No later than <u>October 16, 2020, and</u> October 1st of each year <u>thereafter</u> , a pharmacy services administrative organization representing a pharmacy or pharmacy chain in the <u>Washington</u> state must submit to the authority the data specified in RCW 43.71C.080 following the guidelines set in the authority's applicable data submission guide.	
WAC 182-51-0800(2)		
Proposed	(2) Any pharmacy services administrative organization whose revenue is generated from flat service fees not connected to drug prices or volume, and paid by the pharmacy, is exempt from reporting, subject to audit by the authority. These organizations must petition the authority for exemption from the reporting requirements according to the frequency listed and the format required in the authority's applicable data submission guide.	To clarify that the data submission guides are only guidelines for submitting data.
Adopted	(2) Any pharmacy services administrative organization whose revenue is generated from flat service fees not connected to drug prices or volume, and paid by the pharmacy, is exempt from reporting, subject to audit by the authority. These organizations must petition the authority for exemption from the reporting requirements according to the frequency listed and the format required <u>formatting guidelines</u> in the authority's applicable data submission guide.	
WAC 182-51-0800(3)		
Proposed	(3) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51-1000.	To correct an erroneous cross-reference.
Adopted	(3) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51- 1000 <u>1100</u> .	
WAC 182-51-1000(2)		
Proposed	(2) The authority develops data submission guides and has final approval authority over them.	To provide the opportunity for reporting entities to comment on changes HCA makes to the data submission guides.
Adopted	(2) The authority develops data submission guides and has final approval authority over them. <u>The authority provides reporting entities the opportunity to comment on changes to data requirements in the applicable data submission guide, at least thirty days before the effective date of the change.</u>	
WAC 182-51-1100(1)		
Proposed	(1) RCW 43.71C.090 allows the authority to assess a fine of up to one thousand dollars per day for failure to comply with the requirements of RCW 43.71C.020 through 43.71C.080 and the requirements of this chapter.	To improve usability.
Adopted	(1) RCW 43.71C.090 allows the authority to assess a fine of up to one thousand dollars per day for failure to comply with the requirements of RCW 43.71C.020 through 43.71C.080 and the requirements of this chapter. <u>See WAC 182-51-1300 for fines for failing to comply with reporting requirements and WAC 182-51-1400 for the amount of fines based on culpability.</u>	

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-1100(2)		
Proposed	(2) The authority may, at its sole discretion, grant an extension of time to a reporting requirement deadline under WAC 182-51-1200.	To remove redundant language.
Adopted	(2) The authority may, at its sole discretion, grant an extension of time to a reporting requirement deadline under WAC 182-51-1200.	
WAC 182-51-1200(1)		
Proposed	(1) The authority may, at its sole discretion, grant:	To remove redundant language.
Adopted	(1) The authority may, at its sole discretion, grant:	
WAC 182-51-1200 (1)(b)		
Proposed	(b) The request for an extension must be for no more than one reporting period and must contain a detailed explanation as to the reason the reporting entity is unable to meet the reporting requirements for that period.	To remove a restriction on how long reporting entities may ask for an extension.
Adopted	(b) The request for an extension must be for no more than one reporting period and must contain a detailed explanation as to the reason the reporting entity is unable to meet the reporting requirements for that period.	
WAC 182-51-1200 (1)(d)		
Proposed	(d) The authority may approve a request for extenuating circumstances. The authority provides written notification of the approval or denial to the requestor within fifteen calendar days from when the authority receives the request from the reporting entity. If the authority does not approve a request for an extension, the written notification includes the reason for the denial.	To clarify what extensions are for.
Adopted	(d) The authority may approve a request for <u>an extension for a period of time based on the specific circumstances or other</u> extenuating circumstances. The authority provides written notification of the approval or denial to the requestor within fifteen calendar days from when the authority receives the request from the reporting entity. If the authority does not approve a request for an extension, the written notification includes the reason for the denial.	
WAC 182-51-1300(2)		
Proposed	(2) Unless the authority has approved an extension, the authority may assess a fine for failure to comply with general reporting requirements contained in chapter 43.71C RCW and this chapter including, but not limited to, the following:	To clarify that HCA will also not assess a fine if HCA has received a request to correct previously submitted data.
Adopted	(2) Unless the authority has approved an extension <u>or has received a request to correct previously submitted data,</u> the authority may assess a fine for failure to comply with general reporting requirements contained in chapter 43.71C RCW and this chapter including, but not limited to, the following:	
WAC 182-51-1300(3)		
Proposed	(3) Unless the authority has approved an extension, the authority may assess fines for failure to comply with data file requirements outlined in the applicable data submission guide in effect for the required reporting period including, but not limited to, the following:	To clarify that HCA will also not assess a fine if HCA has received a request to correct previously submitted data.
Adopted	(3) Unless the authority has approved an extension <u>or has received a request to correct previously submitted data,</u> the authority may assess fines for failure to comply with data file requirements outlined in the applicable data submission guide in effect for the required reporting period including, but not limited to, the following:	

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-1300 (4) and (5)		
Proposed	<p>(4) Upon failing to comply with a reporting requirement in this chapter, the authority first issues a warning notice to a reporting entity. The authority sends the warning notice to the reporting entity's last known email or physical address. The warning notice describes the failure to comply with the requirements of this chapter and gives the reporting entity ten days to become compliant or request an extension of time to report the required data according to WAC 182-51-1200(2).</p> <p>(5) A reporting entity that fails to comply with the same reporting requirement in this chapter for which it previously received a warning notice may be assessed a fine of up to one thousand dollars per day. Failure to comply with each reporting requirement for the reporting period is a different occurrence with a separate fine.</p>	<p>The [to] clarify the process HCA uses to work with reporting entities who fail to comply with reporting requirements laid out in this chapter, HCA moved this information to WAC 182-51-1500.</p> <p>Due to this change, subsection (6) was renumbered to subsection (3).</p>
Adopted	<p>(4) Upon failing to comply with a reporting requirement in this chapter, the authority first issues a warning notice to a reporting entity. The authority sends the warning notice to the reporting entity's last known email or physical address. The warning notice describes the failure to comply with the requirements of this chapter and gives the reporting entity ten days to become compliant or request an extension of time to report the required data according to WAC 182-51-1200(2).</p> <p>(5) A reporting entity that fails to comply with the same reporting requirement in this chapter for which it previously received a warning notice may be assessed a fine of up to one thousand dollars per day. Failure to comply with each reporting requirement for the reporting period is a different occurrence with a separate fine.</p>	
WAC 182-51-1400 new subsection (4)		
Proposed	N/A	To clarify how fines accrue.
Adopted	<p><u>(4) Fines continue to accrue daily until the reporting entity comes into compliance, settles through an informal dispute resolution conference under WAC 182-51-1700, or files a formal appeal under WAC 182-51-1800.</u></p>	
WAC 182-51-1500 caption and new subsection (1)		
Proposed	WAC 182-51-1500 Notice of violation and fine.	<p>To provide for a warning notice sent to reporting entities that gives reporting entities thirty days to become compliant or request an extension before a preliminary notice of violation and fine(s) is sent.</p> <p>The proposed subsection (1) was renumbered to subsection (2) to compensate for the new subsection.</p>
Adopted	<p>WAC 182-51-1500 Notice of violation and fine(s). (1) <u>Upon failing to comply with a reporting requirement in this chapter, the authority first issues a warning notice to a reporting entity. The authority sends the warning notice to the reporting entity's last known email or physical address. The warning notice describes the failure to comply with the requirements of this chapter and gives the reporting entity thirty days to become compliant or request an extension of time to report the required data according to WAC 182-51-1200(2).</u></p> <p>(2) When a reporting entity fails ...</p>	

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-1500(1)		
Proposed	(1) When a reporting entity fails to comply with reporting requirement(s) after receiving a warning notice, the authority may assess a fine and notifies the reporting entity. The authority mails the notice of violation to the reporting entity's last known address by certified mail, return receipt requested.	To clarify the preliminary notice of violation and fine(s) process.
Adopted	(1) (2) When a reporting entity fails to comply with reporting requirement(s) after receiving a warning notice, the authority may assess a fine and notifies the reporting entity(s) as established in WAC 182-51-1400. The authority mails the a preliminary notice of violation and fine(s) to the reporting entity's last known address by certified mail, return receipt requested.	
WAC 182-51-1500(2)		
Proposed	(2) The notice of violation includes the following information: (a) The specific reasons and criteria that support the imposition of the assessed fine(s); (b) The legal authority that supports the imposition of a fine or fines; (c) The amount of the fine(s); (d) The date when the fine(s) and other actions imposed will take effect, if not appealed; and (e) An explanation of the reporting entity's appeal rights.	To clarify what information is included in the preliminary notice of violation and fine(s).
Adopted	(2) (3) The <u>preliminary</u> notice of violation <u>and fine(s)</u> includes the following information: (a) The specific reasons and criteria that support the imposition of the assessed fine(s); (b) The legal authority that supports the imposition of a fine or fines; (c) The amount of the fine(s) <u>as of the date of the preliminary notice of violation and fine(s)</u> ; (d) The date when the fine(s) and other actions imposed will take effect, if not appealed <u>Notice that fines will continue to accrue at the assessed daily rate, per WAC 182-51-1400, until the reporting entity either complies with the reporting requirements or settles through an informal dispute resolution conference;</u> and (e) An explanation of the reporting entity's appeal <u>rights to request an informal dispute resolution conference under WAC 182-51-1700.</u>	
WAC 182-51-1600(1)		
Proposed	(1) Each reporting entity to whom the authority issues a notice of a violation and fine may request a hearing to be conducted in accordance with this chapter and chapter 182-526 WAC.	To clarify the difference between the preliminary notice of violation and fine(s) and the final notice of violation and fine(s) and to clarify the difference between the informal dispute resolution process under WAC 182-51-1700 and the formal administrative hearing process under WAC 182-51-1800.
Adopted	(1) Each reporting entity to whom the authority issues a <u>preliminary</u> notice of a violation and fine(s) may request a hearing to be conducted in accordance with this chapter and chapter 182-526 WAC <u>and informal dispute resolution conference under WAC 182-51-1700.</u>	

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-1600 (2) and (3)		
Proposed	<p>(2) A reporting entity must submit a request for a hearing to the authority in writing, in a manner that provides proof of receipt, within twenty-eight calendar days after receipt of written notice provided under WAC 182-51-1500.</p> <p>(3) The request for hearing must specify:</p> <p>(a) The name of the reporting entity requesting the hearing and the reporting entity's, or representative's, mailing address, telephone number, and email address (if available);</p> <p>(b) The items, facts, or conclusions in the notice of violation being contested; and</p> <p>(c) The basis for contesting the authority's action, including any mitigating factors upon which the reporting entity relies and the outcome the reporting entity is seeking.</p>	<p>To clarify the process reporting entities may use to dispute or appeal notices of violation and fine(s). HCA added clarity surrounding the options reporting entities have and the timeliness requirements.</p>
Adopted	<p>(2) A reporting entity must submit a request for a hearing to the authority in writing, in a manner that provides proof of receipt, within twenty-eight calendar days after receipt of written notice provided under WAC 182-51-1500.</p> <p>(3) The request for hearing must specify:</p> <p>(a) The name of the reporting entity requesting the hearing and the reporting entity's, or representative's, mailing address, telephone number, and email address (if available);</p> <p>(b) The items, facts, or conclusions in the notice of violation being contested; and</p> <p>(c) The basis for contesting the authority's action, including any mitigating factors upon which the reporting entity relies and the outcome the reporting entity is seeking. If the reporting entity requests an informal dispute resolution conference under WAC 182-51-1700, the reporting entity must complete the informal dispute resolution process before requesting an administrative hearing.</p> <p>(3) In lieu of an informal dispute resolution conference, the reporting entity may request a formal appeal under WAC 182-51-1800 in writing, in a manner that provides proof of receipt, within twenty-eight calendar days after receipt of the preliminary notice of violation and fine(s). Upon receipt for the reporting entity's request, the authority issues a final notice of violation and fine(s) with an explanation of the reporting entity's administrative hearing rights under WAC 182-51-1800.</p> <p>(4) If the reporting entity does not request an informal dispute resolution conference or formal appeal within twenty-eight calendar days after receipt of the preliminary notice of violation and fine(s), the authority issues a final notice of violation with an explanation of the reporting entity's administrative hearing rights under WAC 182-51-1800.</p>	
WAC 182-51-1700(1)		
Proposed	<p>(1) A reporting entity may informally dispute the authority's determination of a violation under this chapter. Reporting entities must submit the request for dispute resolution in writing, and it must include the following:</p> <p>(a) The supporting evidence for each assessed violation; and</p> <p>(b) The relief sought for each disputed violation.</p>	<p>To clarify that this subsection is regarding the preliminary notice of violation and fine(s). HCA removed the final sentence in this subsection due to amending subsection (2) and adding a new subsection (3).</p>

Proposed/ Adopted	WAC Subsection	Reason
Adopted	<p>(1) A reporting entity may informally dispute the authority's preliminary determination of a violation under this chapter. Reporting entities must submit the request for dispute resolution in writing, and it must include the following:</p> <p>(a) The supporting evidence for each assessed violation; and</p> <p>(b) The relief sought for each disputed violation.</p>	
WAC 182-51-1700(2)		
Proposed	<p>(2) The dispute may include a request for a dispute resolution conference.</p> <p>(a) If the agency grants the reporting entity's request for a dispute resolution conference, the conference occurs within sixty calendar days of the date the reporting entity received the authority's written acceptance of the request for a dispute resolution conference.</p> <p>(b) The reporting entity must notify the authority of who will attend the dispute resolution conference on the reporting entity's behalf at least five business days before the conference.</p>	<p>To clarify how reporting entities may request an informal resolution conference and what information should be in the request.</p> <p>Due to the additional subsections, proposed subsection (3) was renumbered to subsection (6).</p>
Adopted	<p>(2) The dispute may include a request for a dispute resolution conference.</p> <p>(a) A reporting entity must submit a request for an informal dispute resolution conference to the authority in writing, in a manner that provides proof of receipt, within twenty-eight calendar days after receipt of the preliminary notice of violation and fine(s).</p> <p>(3) Requests should specify:</p> <p>(a) The name of the reporting entity requesting the informal dispute resolution conference and the reporting entity's, or representative's, mailing address, telephone number, and email address (if available);</p> <p>(b) The items, facts, or conclusions in the preliminary notice of violation being contested; and</p> <p>(c) The basis for contesting the authority's action, including any mitigating factors upon which the reporting entity relies and the outcome the reporting entity is seeking.</p> <p>(4) If the agency grants the reporting entity's request for a dispute resolution conference, the conference occurs within sixty calendar days of the date the reporting entity received the authority's written acceptance of the request for a dispute resolution conference.</p> <p>(b) (5) The reporting entity must notify the authority of who will attend the dispute resolution conference on the reporting entity's behalf at least five business days before the conference.</p>	
WAC 182-51-1700 new subsection (7)		
Proposed	N/A	
Adopted	<p>(7) Upon completion or termination of the informal dispute resolution process, the authority will issue a final notice of violation and fine(s).</p>	<p>To clarify when HCA issues the final notice of violation and fine(s).</p> <p>Due to the addition of this subsection, proposed subsection (4) was renumbered to subsection (8).</p>

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-51-1800(1)		
Proposed	(1) A reporting entity has a right to an administrative hearing (formal appeal), and any resulting appeals process available under chapters 34.05 RCW and 182-526 WAC, if the authority assesses a fine against the reporting entity under any section of chapter 43.71C RCW and this chapter. To the extent that there may be a conflict between the general provisions contained in chapter 182-526 WAC and this chapter, the more specific provisions in this chapter apply.	To clarify that reporting entities have the right to a formal administrative hearing when they receive a final notice of violation and fine(s).
Adopted	(1) A reporting entity has a right to an administrative hearing (formal appeal), and any resulting appeals process available under chapters 34.05 RCW and 182-526 WAC, if the authority assesses a <u>final notice of violation and fine(s)</u> against the reporting entity under any section of chapter 43.71C RCW and this chapter. To the extent that there may be a conflict between the general provisions contained in chapter 182-526 WAC and this chapter, the more specific provisions in this chapter apply.	
WAC 182-51-1800(2)		
Proposed	(2) A reporting entity may appeal both the assessed violation(s) and the amount of the fine(s) assessed in the notice of violation and fine.	To clarify that this subsection is regarding the final notice of violation and fine(s).
Adopted	(2) A reporting entity may appeal both the assessed violation(s) and the amount of the fine(s) assessed in the <u>final</u> notice of violation and fine(s).	
WAC 182-51-1800 new subsections (3) and (4)		
Proposed	N/A	To clarify how reporting entities may request a formal administrative hearing and what information should be in the request. Because of this addition, the subsequent subsections were renumbered.
Adopted	<p><u>(3) A reporting entity must submit a request for formal hearing to the authority in writing, in a manner that provides proof of receipt, within twenty-eight calendar days after receipt of the final notice of violation and fine(s) under WAC 182-51-1700.</u></p> <p><u>(4) Requests should specify:</u></p> <p><u>(a) The name of the reporting entity requesting the hearing and the reporting entity's, or representative's, mailing address, telephone number, and email address (if available);</u></p> <p><u>(b) The items, facts, or conclusions in the final notice of violation being contested; and</u></p> <p><u>(c) The basis for contesting the authority's action, including any mitigating factors upon which the reporting entity relies and the outcome the reporting entity is seeking.</u></p>	

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 19, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 19, Amended 0, Repealed 0.

Date Adopted: September 15, 2020.

Wendy Barcus
Rules Coordinator

Chapter 182-51 WAC

PRESCRIPTION DRUG PRICING TRANSPARENCY PROGRAM

NEW SECTION

WAC 182-51-0050 Authority and purpose. (1) Under the authority of chapter 43.71C RCW, this chapter implements the Washington prescription drug pricing transparency program.

(2) The purpose of the Washington prescription drug pricing transparency program is to provide notice and disclosure of information relating to the cost and pricing of prescription drugs in order to provide accountability to the state for prescription drug pricing.

(3) The authority publishes a data submission guide to the authority's website, detailing the data elements to report as required by chapter 43.71C RCW, and how to submit the data.

NEW SECTION

WAC 182-51-0100 Definitions. For the purposes of this chapter:

(1) "Authority" means the health care authority.

(2) "Calendar days" means the same as in WAC 182-526-0010.

(3) "Calendar year" means the period from January 1st to December 31st of each year.

(4) "Covered drug" means any prescription drug that:

(a) A covered manufacturer intends to introduce to the market in Washington state at a wholesale acquisition cost of ten thousand dollars or more for a course of treatment lasting less than one month or a thirty-day supply, whichever period is longer; or

(b) Meets all of the following:

(i) Is currently on the market in Washington state;

(ii) Is manufactured by a covered manufacturer; and

(iii) Has a wholesale acquisition cost of more than one hundred dollars for a course of treatment lasting less than one month or a thirty-day supply, and, taking into account only price increases that take effect after July 28, 2019, the manufacturer increases the wholesale acquisition cost such that:

(A) The new wholesale acquisition cost is twenty percent higher than the wholesale acquisition cost on the same day of the month, twelve months before the date of the proposed increase; or

(B) The new wholesale acquisition cost is fifty percent higher than the wholesale acquisition cost on the same day of the month, thirty-six months before the date of the proposed increase.

(5) "Covered manufacturer" means a person, corporation or other entity engaged in the manufacture of prescription drugs sold in or into Washington state. "Covered manufacturer" does not include a private label distributor or retail pharmacy that sells a drug under the retail pharmacy's store label, or a prescription drug repackager.

(6) "Data" means all data provided to the authority under RCW 43.71C.020 through 43.71C.080 and any analysis prepared by the authority.

(7) "Data recipient" means an individual or entity authorized to receive data under RCW 43.71C.100.

(8) "Data submission guide" means the document that identifies the data required under chapter 43.71C RCW, and provides instructions for submitting this data to the authority, including guidance on required format for reporting, for each reporting entity.

(9) "Food and drug administration (FDA) approval date" means the deadline for the FDA to review applications for new drugs or new biologics after the new drug application or biologic application is accepted by the FDA as complete in accordance with the Prescription Drug User Fee Act of 1992 (106 Stat. 4491; P.L. 102-571).

(10) "Health plan," "health carrier," and "carrier" mean the same as in RCW 48.43.005.

(11) "Introduced to market" means marketed in Washington state.

(12) "Pharmacy benefit manager" means the same as defined in RCW 19.340.010.

(13) "Pharmacy services administrative organization" means an entity that:

(a) Contracts with a pharmacy to act as the pharmacy's agent with respect to matters involving a pharmacy benefit manager, third-party payor, or other entities, including negotiating, executing, or administering contracts with the pharmacy benefit manager, third-party payor, or other entities; and

(b) Provides administrative services to pharmacies.

(14) "Pipeline drug" means a drug or biologic product containing a new molecular entity, not yet approved by the Food and Drug Administration, for which a manufacturer intends to seek initial approval from the Food and Drug Administration under an original new drug application under 21 U.S.C. Sec. 355(b) or under a biologics license application under 42 U.S.C. Sec. 262 to be marketed in Washington state.

(15) "Prescription drug" means a drug regulated under chapter 69.41 or 69.50 RCW that is prescribed for outpatient use and distributed in a retail setting, including generic, brand name, specialty drugs, and biological products.

(16) "Private label distributor" means a firm that does not participate in the manufacture or processing of a drug but instead markets and distributes under its own trade name, and labels a drug product made by someone else.

(17) "Qualifying price increase" means a price increase described in subsection (3)(b) of this section.

(18) "Rebate" means negotiated price concessions, discounts, however characterized, that accrue directly or indirectly to a reporting entity in connection with utilization of prescription drugs by reporting entity members including, but not limited to, rebates, administrative fees, market share rebates, price protection rebates, performance-based price concessions, volume-related rebates, other credits, and any other negotiated price concessions or discounts that are reasonably anticipated to be passed through to a reporting entity during a coverage year, and any other form of price concession prearranged with a covered manufacturer, dispensing pharmacy, pharmacy benefit manager, rebate aggregator, group purchasing organization, or other party which are paid to a reporting entity and are directly attributable to the utilization of certain drugs by reporting entity members.

(19) "Reporting entity" means carriers, covered manufacturers, health carriers, health plans, pharmacy benefit managers, and pharmacy services administrative organizations, which are required to or voluntarily submit data according to chapter 43.71C RCW.

(20) "Wholesale acquisition cost" means, with respect to a prescription drug, the manufacturer's list price for the drug to wholesalers or direct purchasers in the United States, excluding any discounts, rebates, or reductions in price, for the most recent month for which the information is available, as reported in wholesale acquisition cost guides or other publications of prescription drug pricing.

DATA REPORTING, NOTICES, AND CONFIDENTIALITY

NEW SECTION

WAC 182-51-0200 Reporting entity registration. (1)

No later than August 1st of each year, a reporting entity must register with the authority and provide the required contact information as defined in the applicable data submission guide. Reregistration is required only if there is a change in contact information previously provided.

(2) It is the responsibility of the reporting entity to maintain current and accurate contact information with the authority.

(3) Failure to register and provide or maintain accurate contact information with the authority may result in a reporting entity's inability to submit required data in compliance with this chapter.

NEW SECTION

WAC 182-51-0300 Health carriers—Cost utilization data reporting. (1) No later than October 16, 2020, a health carrier must submit to the authority the prescription drug cost and utilization data for calendar years 2018 and 2019, for each health plan it offered in Washington state in calendar years 2018 and 2019, following the guidelines set in the authority's applicable data submission guide.

(2) Beginning October 1, 2021, and no later than October 1st annually thereafter, a health carrier must submit to the authority the prescription drug cost and utilization data for the previous calendar year for each health plan it offered in Washington state, following the guidelines set in the authority's applicable data submission guide.

(3) A carrier may voluntarily submit the data described in subsection (1) of this section for any employer-sponsored, self-funded health plan; Taft-Hartley trust health plan; worker's compensation plan; medicare Part D plan; or medicare advantage plan it administers.

(4) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51-1100.

NEW SECTION

WAC 182-51-0400 Pharmacy benefit managers—Data reporting. (1) No later than March 1st of each year, a pharmacy benefit manager must submit to the authority all

data specified in RCW 43.71C.030, following the guidelines set in the authority's applicable data submission guide.

(2) The authority may examine or audit a pharmacy benefit manager's financial records to ensure the information submitted under this section is accurate. Information the authority acquires in an examination of financial records according to this subsection is treated as proprietary and confidential. The information collected according to this subsection is not subject to public disclosure under chapter 42.56 RCW.

(3) A pharmacy benefit manager may voluntarily submit the data described in subsection (1) of this section for any employer-sponsored, self-funded health plan; Taft-Hartley trust health plan; worker's compensation plan; medicare Part D plan; or medicare advantage plan it administers.

(4) The information submitted according to this section is not subject to public disclosure under chapter 42.56 RCW.

(5) The agency may assess fines for not complying with the requirements in this section. See WAC 182-51-1100.

NEW SECTION

WAC 182-51-0500 Pharmacy benefit managers—Compliance. (1) No later than March 1st of each year, each pharmacy benefit manager must file with the authority an attestation in the format required by the authority for the preceding calendar year, stating that the pharmacy benefit manager is in compliance with this chapter.

(2) A pharmacy benefit manager must not cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading.

NEW SECTION

WAC 182-51-0600 Manufacturers—Data and price reporting. (1) On or before December 31, 2020, a covered manufacturer must submit to the authority all data specified in RCW 43.71C.050 and 43.71C.070, the following guidelines set in the authority's applicable data submission guide for each covered drug as the drug existed between and including July 28, 2019, and August 17, 2020.

(2) Beginning October 16, 2020, a covered manufacturer must submit to the authority all data specified in RCW 43.71C.050 and 43.71C.070, following the guidelines set in the authority's applicable data submission guide, for each covered drug as follows:

(a) Sixty days in advance of a qualifying prices increase for a covered drug marketed in Washington state; or

(b) Thirty days in advance of a new covered drug's introduction to market in Washington state.

(3) For any drug approved under section 505(j) of the federal Food, Drug, and Cosmetic Act as it existed on August 18, 2020, or a biosimilar approved under section 351(k) of the federal Public Health Service Act as it existed on August 18, 2020, if submitting data in accordance with subsection (2)(a) of this section is not possible sixty days before the price increase; or if submitting data in accordance with subsection (2)(b) of this section is not possible thirty days before the introduction to market, that submission must be made as

soon as known but no later than the date of the price increase or introduction to market.

(4) The information submitted according to this section is not subject to public disclosure under chapter 42.56 RCW.

(5) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51-1100.

NEW SECTION

WAC 182-51-0700 Manufacturers—Notice of new drug applications and biologic license applications. (1) On or before December 31, 2020, a manufacturer must submit to the authority all data specified in RCW 43.71C.060(1), following the guidelines set in the authority's applicable data submission guide for all new drug applications or biologic license applications for pipeline drugs submitted on or after October 1, 2019, through October 15, 2020, for which the manufacturer has received an FDA approval date.

(2) Beginning October 16, 2020, a manufacturer must submit to the authority all data specified in RCW 43.71C.060(1), following the guidelines set in the authority's applicable data submission guide for all new drug applications or biologic license applications for pipeline drugs submitted on or after October 16, 2020, within sixty calendar days of the manufacturer receiving the FDA approval date.

(3) The authority considers fifty thousand dollars per biennium to be a significant impact on state expenditures. Reporting entities may anticipate a request for additional information per RCW 43.71C.060(3) from the authority for products expected to exceed fifty thousand dollars per biennium. To improve efficiency in reporting, manufacturers who submit a new drug application or a biologics license application for a pipeline drug or a biologics license application for a biological product that is expected to cost the state more than fifty thousand dollars per biennium may submit the data elements in RCW 43.71C.060(3) at the same time they submit the notice of the new drug application.

(4) A manufacturer may limit the information reported according to this section to information that is in the public domain or publicly reported.

(5) The agency may assess fines for not complying with the requirements in this section. See WAC 182-51-1100.

NEW SECTION

WAC 182-51-0800 Pharmacy services administrative organizations—Data reporting. (1) No later than October 16, 2020, and October 1st of each year thereafter, a pharmacy services administrative organization representing a pharmacy or pharmacy chain in Washington state must submit to the authority the data specified in RCW 43.71C.080 following the guidelines set in the authority's applicable data submission guide.

(2) Any pharmacy services administrative organization whose revenue is generated from flat service fees not connected to drug prices or volume, and paid by the pharmacy, is exempt from reporting, subject to audit by the authority. These organizations must petition the authority for exemption from the reporting requirements according to the frequency listed and the formatting guidelines in the authority's applicable data submission guide.

(3) The authority may assess fines for not complying with the requirements in this section. See WAC 182-51-1100.

NEW SECTION

WAC 182-51-0900 Data confidentiality. The authority provides data only after the data recipient, as defined by this chapter, has signed a nondisclosure agreement. The authority may prohibit access to or use of the data by a data recipient who violates the nondisclosure agreement.

NEW SECTION

WAC 182-51-1000 Data submission guides. (1) All data and data files must be submitted to the authority in accordance with the requirements in this chapter and the respective data submission guide for the respective reporting period. Data submission guides are located on the authority's website.

(2) The authority develops data submission guides and has final approval authority over them. The authority provides reporting entities the opportunity to comment on changes to data requirements in the applicable data submission guide, at least thirty days before the effective date of the change.

(3) At its discretion, the authority may grant reporting entities an extension to comply with any changes the authority makes to the data submission guides. Reporting entities must request extensions in accordance with WAC 182-51-1200.

ENFORCEMENT

NEW SECTION

WAC 182-51-1100 Authority to assess fines. (1) RCW 43.71C.090 allows the authority to assess a fine of up to one thousand dollars per day for failure to comply with the requirements of RCW 43.71C.020 through 43.71C.080 and the requirements of this chapter. See WAC 182-51-1300 for fines for failing to comply with reporting requirements and WAC 182-51-1400 for the amount of fines based on culpability.

(2) The authority may grant an extension of time to a reporting requirement deadline under WAC 182-51-1200.

NEW SECTION

WAC 182-51-1200 Extension of deadlines. (1) The authority may grant:

(a) An extension of time to a reporting requirement deadline; or

(b) Permission to correct previously submitted data.

(2) Extensions.

(a) A reporting entity may request an extension of time for submitting a report or the resubmission of a report due to extenuating circumstances affecting the reporting entity's ability to submit the data by the deadline.

(b) The request for an extension must contain a detailed explanation as to the reason the reporting entity is unable to meet the reporting requirements for that period.

(c) A reporting entity must submit a request for an extension to the authority at least thirty calendar days before the applicable reporting deadline unless the requestor is unable to meet this deadline due to circumstances beyond the reporting entity's control. If unable to meet this deadline, the reporting entity must notify the authority in writing as soon as the reporting entity determines that an extension is necessary.

(d) The authority may approve a request for an extension for a period of time based on the specific circumstances or other extenuating circumstances. The authority provides written notification of the approval or denial to the requestor within fifteen calendar days from when the authority receives the request from the reporting entity. If the authority does not approve a request for an extension, the written notification includes the reason for the denial.

(e) A reporting entity may not appeal the authority's decision to deny an extension.

NEW SECTION

WAC 182-51-1300 Fines for failure to comply with reporting requirements. (1) The authority may assess fines for failure to comply with the general reporting requirements of this chapter including, but not limited to, failing to report data or reporting erroneous or inaccurate data.

(2) Unless the authority has approved an extension or has received a request to correct previously submitted data, the authority may assess a fine for failure to comply with general reporting requirements contained in chapter 43.71C RCW and this chapter including, but not limited to, the following:

- (a) Failure to timely submit required data files; or
- (b) Failure to accurately submit all data elements.

(3) Unless the authority has approved an extension or has received a request to correct previously submitted data, the authority may assess fines for failure to comply with data file requirements outlined in the applicable data submission guide in effect for the required reporting period including, but not limited to, the following:

- (a) Submitting a data file in an unapproved layout;
- (b) Submitting a data element in an unapproved format;
- (c) Submitting a data element with unapproved coding;
- (d) Failing to submit a required data element;
- (e) Failing to comply with the approved data submission schedule; or
- (f) Transmitting data files using an unapproved process.

NEW SECTION

WAC 182-51-1400 Amount of fines based on culpability. (1) In determining the amount of any fine, the authority considers the level of culpability associated with the violation. The levels of culpability, in the order of least severe to most severe, are as follows:

(a) **Did not know.** The reporting entity did not know and by exercising reasonable diligence, could not have known the violation had occurred.

(b) **Reasonable cause.** The reporting entity knew, or by exercising diligence should have known, that the violation had taken place, but the reporting entity did not act with willful neglect.

(c) **Willful neglect - Corrected.** The violation was due to the reporting entity's intentional failure or reckless indifference, and the violation was corrected within thirty calendar days from the date the reporting entity knew or with reasonable diligence should have known of the violation.

(d) **Willful neglect - Uncorrected.** The violation was due to the reporting entity's intentional failure or reckless indifference, and the violation was not corrected within thirty calendar days from the date the reporting entity knew or with reasonable diligence should have known of the violation.

(2) The fine ranges for each level of culpability and the daily cap for violations of a similar nature are as follows:

Culpability category	Fines per violation, per day
Did not know	\$250
Reasonable cause	\$500
Willful neglect - Corrected	\$750
Willful neglect - Not corrected	\$1,000

(3) Fines begin to accrue on the first day after the reporting deadline. For those reporting entities granted an extension by the authority, fines begin to accrue on the first day after the extended due date.

(4) Fines continue to accrue daily until the reporting entity comes into compliance, settles through an informal dispute resolution conference under WAC 182-51-1700, or files a formal appeal under WAC 182-51-1800.

NEW SECTION

WAC 182-51-1500 Preliminary notice of violation and fine(s). (1) Upon failing to comply with a reporting requirement in this chapter, the authority first issues a warning notice to a reporting entity. The authority sends the warning notice to the reporting entity's last known email or physical address. The warning notice describes the failure to comply with the requirements of this chapter and gives the reporting entity thirty days to become compliant or request an extension of time to report the required data according to WAC 182-51-1200(2).

(2) When a reporting entity fails to comply with reporting requirement(s) after receiving a warning notice, the authority may assess a fine(s) as established in WAC 182-51-1400. The authority mails a preliminary notice of violation and fine(s) to the reporting entity's last known address by certified mail, return receipt requested.

(3) The preliminary notice of violation and fine(s) includes the following information:

- (a) The specific reasons and criteria that support the imposition of the assessed fine(s);
- (b) The legal authority that supports the imposition of a fine or fines;
- (c) The amount of the fine(s) as of the date of the preliminary notice of violation and fine(s);
- (d) Notice that fines will continue to accrue at the assessed daily rate, per WAC 182-51-1400, until the reporting entity either complies with the reporting requirements or

settles through an informal dispute resolution conference; and

(e) An explanation of the reporting entity's right to request an informal dispute resolution conference under WAC 182-51-1700.

NEW SECTION

WAC 182-51-1600 Process to appeal determination of a violation and assessed fines. (1) Each reporting entity to whom the authority issues a preliminary notice of a violation and fine(s) may request an informal dispute resolution conference under WAC 182-51-1700.

(2) If the reporting entity requests an informal dispute resolution conference under WAC 182-51-1700, the reporting entity must complete the informal dispute resolution process before requesting an administrative hearing.

(3) In lieu of an informal dispute resolution conference, the reporting entity may request a formal appeal under WAC 182-51-1800 in writing, in a manner that provides proof of receipt, within twenty-eight calendar days after receipt of the preliminary notice of violation and fine(s). Upon receipt for the reporting entity's request, the authority issues a final notice of violation and fine(s) with an explanation of the reporting entity's administrative hearing rights under WAC 182-51-1800.

(4) If the reporting entity does not request an informal dispute resolution conference or formal appeal within twenty-eight calendar days after receipt of the preliminary notice of violation and fine(s), the authority issues a final notice of violation with an explanation of the reporting entity's administrative hearing rights under WAC 182-51-1800.

NEW SECTION

WAC 182-51-1700 Informal dispute resolution prior to a hearing. (1) A reporting entity may informally dispute the authority's preliminary determination of a violation under this chapter.

(2) A reporting entity must submit a request for an informal dispute resolution conference to the authority in writing, in a manner that provides proof of receipt, within twenty-eight calendar days after receipt of the preliminary notice of violation and fine(s).

(3) Requests should specify:

(a) The name of the reporting entity requesting the informal dispute resolution conference and the reporting entity's, or representative's, mailing address, telephone number, and email address (if available);

(b) The items, facts, or conclusions in the preliminary notice of violation being contested; and

(c) The basis for contesting the authority's action, including any mitigating factors upon which the reporting entity relies and the outcome the reporting entity is seeking.

(4) If the agency grants the reporting entity's request for a dispute resolution conference, the conference occurs within sixty calendar days of the date the reporting entity received the authority's written acceptance of the request for a dispute resolution conference.

(5) The reporting entity must notify the authority of who will attend the dispute resolution conference on the reporting entity's behalf at least five business days before the conference.

(6) The authority may terminate the dispute resolution process at any time.

(7) Upon completion or termination of the informal dispute resolution process, the authority will issue a final notice of violation and fine(s).

(8) Nothing in this chapter prevents settlement discussions between the parties. All settlement discussions are informal and without prejudice to the rights of the participants in the discussions.

NEW SECTION

WAC 182-51-1800 Administrative hearing (formal appeal) right. (1) A reporting entity has a right to an administrative hearing (formal appeal), and any resulting appeals process available under chapters 34.05 RCW and 182-526 WAC, if the authority assesses a final notice of violation and fine(s) against the reporting entity under any section of chapter 43.71C RCW and this chapter. To the extent that there may be a conflict between the general provisions contained in chapter 182-526 WAC and this chapter, the more specific provisions in this chapter apply.

(2) A reporting entity may appeal both the assessed violation(s) and the amount of the fine(s) assessed in the final notice of violation and fine(s).

(3) A reporting entity must submit a request for formal hearing to the authority in writing, in a manner that provides proof of receipt, within twenty-eight calendar days after receipt of the final notice of violation and fine(s) under WAC 182-51-1700.

(4) Requests should specify:

(a) The name of the reporting entity requesting the hearing and the reporting entity's, or representative's, mailing address, telephone number, and email address (if available);

(b) The items, facts, or conclusions in the final notice of violation being contested; and

(c) The basis for contesting the authority's action, including any mitigating factors upon which the reporting entity relies and the outcome the reporting entity is seeking.

(5) At the administrative hearing and on appeal, the reporting entity bears the burden of proving by a preponderance of the evidence that it has complied with applicable laws, rules, regulations, and agreements.

(6) The administrative hearing process is governed by chapters 34.05 RCW and 182-526 WAC.

(7) The authority does not begin the collection process until a decision in the administrative hearing is issued and all levels of appeal have been exhausted.

(8) Interest on owed and outstanding fines continues to accrue at the rate of one percent per month or portion of a month, but it is not collected until a decision in the administrative hearing is issued and all levels of appeal have been exhausted.

WSR 20-20-002
PERMANENT RULES
PARAEDUCATOR BOARD

[Filed September 23, 2020, 2:54 p.m., effective October 24, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amend WAC with language that allows online synchronous learning with an instructor to meet the one day in-person requirement of the fundamental course of study.

Citation of Rules Affected by this Order: Amending WAC 179-09-040.

Statutory Authority for Adoption: Chapter 28A.413 RCW.

Adopted under notice filed as WSR 20-15-101 on July 15, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 23, 2020.

Jack Busbee
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-21-070, filed 10/11/19, effective 11/11/19)

WAC 179-09-040 Fundamental course of study. (1) School districts must implement this section only in school years for which state funding is appropriated specifically for the purposes of this section and only for the number of days that are funded by the appropriation.

(2)(a) School districts must provide a fundamental course of study on the state standards of practice, as defined by the board in WAC 179-09-050 of this chapter, to paraeducators who have not completed the course, either in the district or in another district within the state. At least one day of the fundamental course of study must be provided in person. School districts must use best efforts to provide the fundamental course of study before the paraeducator begins to work with students and their families, and at a minimum by the deadlines provided in subsection (3) of this section.

(b) Beginning March 1, 2020, through September 1, 2021, virtual learning environments that use synchronous learning with an instructor will meet the one day in-person training requirement of the fundamental course of study.

(3) Except as provided in (b) of this subsection, school districts must provide the fundamental course of study

required in subsection (2) of this section by the deadlines provided in (a) of this subsection:

(a)(i) For paraeducators hired on or before September 1st, the first two days of the fundamental course of study must be provided by September 30th of that year and the second two days of the fundamental course of study must be provided within six months of the date of hire, regardless of the size of the district; and

(ii) For paraeducators hired after September 1st:

(A) For districts with ten thousand or more students, the first two days of the fundamental course of study must be provided within four months of the date of hire and the second two days of the fundamental course of study must be provided within six months of the date of hire or by September 1st of the following year, whichever is sooner; and

(B) For districts with fewer than ten thousand students, no later than September 1st of the following year.

(b)(i) For paraeducators hired for the 2018-19 school year, by September 1, 2020; and

(ii) For paraeducators not hired for the 2018-19 school year, but hired for the 2019-20 school year, by September 1, 2021.

(4) School districts may collaborate with other school districts or educational service districts to meet the requirements of this section.

(5)(a) Providers of the fundamental course of study must provide to the paraeducator written documentation of each unit completed by a paraeducator. The documentation is as published by the professional educator standards board.

(b) Upon request, if such request is made within seven calendar years of unit completion, the provider shall provide the paraeducator with documentation of unit completion.

(6) The fundamental course of study must include the training competencies that align with the standards of practice in chapter 179-07 WAC.

(7) The paraeducator shall be responsible for completing filing requirements with the superintendent of public instruction, in accordance with WAC 179-01-020, the completion of the fundamental course of study.

WSR 20-20-004
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed September 24, 2020, 8:23 a.m., effective October 25, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? The 2020 supplemental operating budget provides for elimination of the mid-certification review (MCR) requirement for aged, blind, or disabled (ABD) program recipients who are age 65 or older. This change eliminates a barrier to ongoing ABD program benefits for the aged population. MCRs for this population are no longer required effective July 1, 2020, as

reflected in emergency amendments filed under WSR 20-14-085.

Citation of Rules Affected by this Order: Amending WAC 388-418-0011.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510.

Other Authority: ESSB 6168, chapter 357, Laws of 2020.

Adopted under notice filed as WSR 20-16-091 on July 30, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 23, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-09-034, filed 4/11/13, effective 6/1/13)

WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? (1) A **mid-certification review (MCR)** is a form we send you to ask about your current circumstances. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance or Basic Food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) Only receive Refugee Cash Assistance as described under WAC 388-400-0030; ~~((or))~~

(ii) Receive aged, blind, or disabled (ABD) program assistance as described under WAC 388-400-0060 and are age sixty-five or older; or

(iii) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for Basic food if:

(i) Your assistance unit has a certification period of six months or less; or

(ii) All adults in your assistance unit are elderly or disabled and have no earned income.

(3) **When we send the review form:**

If you must complete a MCR ...	We send your review form ...
(a) For one program such as Basic Food.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(b) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(c) For Basic Food and another program when either program has a certification or review period between six and twelve months.	In the fifth month of your Basic Food certification period when you receive Basic Food and another program. You must complete your review by the 10th day of month six of your Basic Food certification.

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review in one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Complete the review form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the form;

(iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iv) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(v) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;

(ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iii) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even if this does not give you ten days notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

WSR 20-20-007

PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed September 24, 2020, 12:30 p.m., effective October 25, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is repealing WAC 388-478-0010 Households with obligations to pay shelter costs; and amending WAC 388-418-0020 How does the department determine the date a change affects my cash and basic food benefits?, 388-478-0005 Cash assistance need and payment standards and grant maximum, 388-478-0006 The clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance, 388-478-0015 Need standards for cash assistance, 388-478-0020 Payment standards for TANF, SFA, and RCA, 388-478-0027 What are the payment standards for pregnant women assistance (PWA)?, 388-478-0033 What are the payment standards for aged, blind, or disabled (ABD) cash assistance?, and 388-478-0090 What are the monthly income limits for the aged, blind, and disabled (ABD) cash assistance and housing and essential needs (HEN) referral program?, to remove references to a separate standard for households with shelter provided at no cost. With this change, the department will no longer issue reduced grants based on a supplied shelter standard for recipients with no shelter costs as provided in the 2020 supplemental operating budget (ESSB 6168, chapter 357, Laws of 2020).

Citation of Rules Affected by this Order: Repealing WAC 388-478-0010; and amending WAC 388-418-0020, 388-478-0005, 388-478-0006, 388-478-0015, 388-478-0020, 388-478-0027, 388-478-0033, and 388-478-0090.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.510, 74.04.655,

74.04.770, 74.04.0052, 74.08.043, 74.08.090, 74.08.335, 74.08A.100, 74.08A.120, 74.08A.230, 74.62.030.

Other Authority: ESSB 6168, chapter 357, Laws of 2020.

Adopted under notice filed as WSR 20-16-130 on August 3, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 8, Repealed 1.

Date Adopted: September 24, 2020.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-07-064, filed 3/15/18, effective 4/15/18)

WAC 388-418-0020 How does the department determine the date a change affects my cash and basic food benefits? (1) The rules in this chapter refer to cash and basic food benefits unless otherwise specified.

(2) If you report a change that happened between the date you applied for benefits and the date we interview you under WAC 388-452-0005, we take this change into consideration when we process your application for benefits.

(3) If we learn about a change in your circumstances from another person, agency, or by matching with any number of systems, we determine the impact this change has on your benefits. We may request additional information under WAC 388-490-0005 or update your benefits based on this information.

(4) For cash and basic food programs, if you report a change in your income that we expect to continue at least a month beyond the month when you reported the change, we recalculate the income we estimated under WAC 388-450-0215 based on this change.

(5) Changes reported outside of normal business hours, including changes you submitted online, in person, or sent to us by fax, are considered received the next business day.

(6) When a change causes an increase in benefits, you must provide proof of the change before we adjust your benefits.

(a) If you give us the proof within ten days from the date we requested it, we increase your benefits starting the month after the month you reported the change.

(b) If you give us the proof more than ten days after the date we requested it, we increase your benefits starting the month after the month we got the proof.

(c) If you are eligible for more benefits and we have already sent you benefits for that month, we provide you the additional benefits within ten days of the day we got the proof.

(7) When a change causes a decrease in benefits, we reduce your benefit amount without asking for proof.

(a) If you report a change within the time limits in WAC 388-418-0007, and you are not reporting this as part of a mid-certification review, we decrease your benefits starting the first month following the advance notice period. The advance notice period:

(i) Begins on the day we send you a letter about the change; and

(ii) Is determined according to the rules in WAC 388-458-0025.

(b) If you do not report a change you must tell us about under WAC 388-418-0005, or you report a change later than we require under WAC 388-418-0007, we determine your eligibility as if you had reported this on time. If you received more benefits than you should, we set up an overpayment as described under chapter 388-410 WAC.

(8) If we are not sure how the change will affect your benefits, we send you a letter as described in WAC 388-458-0020 requesting information from you.

(a) We give you ten days to provide the information. If you need more time, you can ask for it.

(b) If you do not give us the information in time, we will stop your benefits after giving you advance notice, if required, as described in WAC 388-458-0030.

(9) Within ten days of the day we learn about a change, we send advance notice according to the rules in chapter 388-458 WAC and take necessary action to provide you the correct benefits. If you request a hearing about a proposed decrease in benefits before the effective date or within the notice period as described in WAC 388-458-0040, we wait to take action on the change.

(10) If you disagree with a decision we made to change your benefits, you may request a fair hearing under chapter 388-02 WAC. The fair hearing rules in chapter 388-02 WAC do not apply for a "mass change." A mass change is when we change the rules that impact all recipients and applicants.

(11) When you request a hearing and receive continued benefits:

(a) We keep giving you the same benefits you got before the advance notice of reduction until the earliest of the following events occur:

(i) For basic food only, your certification period expires;

(ii) The end of the month the fair hearing decision is mailed;

(iii) You state in writing that you do not want continued benefits;

(iv) You withdraw your fair hearing request in writing; or

(v) You abandon your fair hearing request;

(vi) An administrative law judge issues a written order that ends continued benefits prior to the fair hearing.

(b) We establish an overpayment claim according to the rules in chapter 388-410 WAC when the hearing decision agrees with the action we took.

(12) Some changes have a specific effective date as follows:

(a) When cash assistance benefits increase because a person is added to your assistance unit, we use the effective date rules for applications in WAC 388-406-0055.

~~(b) ((When cash assistance benefits increase because you start paying shelter costs, we use the date the change occurred.~~

~~(e))~~ When a change in law or regulation changes the benefit amount, we use the date specified by the law or regulation.

AMENDATORY SECTION (Amending WSR 13-18-005, filed 8/22/13, effective 10/1/13)

WAC 388-478-0005 Cash assistance need and payment standards and grant maximum. (1) Need standards for cash assistance programs represent the amount of income required by individuals and families to maintain a minimum and adequate standard of living. Need standards are based on assistance unit size and include basic requirements for food, clothing, shelter, energy costs, transportation, household maintenance and operations, personal maintenance, and necessary incidentals.

(2) Payment standards for assistance units in medical institutions and other facilities are based on the need for clothing, personal maintenance, and necessary incidentals (see WAC ~~((482-513-1300 and 182-515-1500))~~ 388-478-0006).

(3) Need and payment standards for persons and families who do not reside in medical institutions and other facilities are based on ~~((their obligation to pay for shelter))~~ program grant standards.

~~((a) Eligibility and benefit levels for persons and families who meet the requirements in WAC 388-478-0010 are determined using standards for assistance units with an obligation to pay shelter costs.~~

~~(b) Eligibility and benefit levels for all other persons and families are determined using standards for assistance units who have shelter provided at no cost.~~

~~(c) For recent arrivals to Washington state who apply for temporary assistance for needy families (TANF), see WAC 388-468-0005.)~~

(4) Starting July 1, 2012, the monthly cash assistance grant for an assistance unit cannot exceed the payment standard for a family of eight listed in WAC 388-478-0020(1).

AMENDATORY SECTION (Amending WSR 15-12-021, filed 5/22/15, effective 7/1/15)

WAC 388-478-0006 The clothing, personal maintenance, and necessary incidentals (CPI) payment standard for cash assistance. Payment standards for assistance units (AU) in certain facilities and medical institutions are based on the need for clothing, personal maintenance, and necessary incidentals (CPI).

(1) The CPI cash assistance payment standard for recipients of cash assistance is:

(a) Forty-one dollars and sixty-two cents for eligible persons in medical institutions as defined in WAC 182-500-0050; or

(b) Thirty-eight dollars and eighty-four cents for eligible persons in one of the following facilities as defined in WAC 182-513-1100:

- (i) Adult residential care (ARC) facility;
- (ii) Adult residential rehabilitation centers (ARRC);
- (iii) Adult residential treatment facility (ARTF);
- (iv) Enhanced adult residential care facility (EARC); or
- (v) Developmental disability administration (DDA) group home facilities.

(2) When living situation is other than the medical institutions defined in WAC 182-500-0050 and group facilities defined in WAC 182-513-1100 refer to ((WAC 388-478-0010 when living situation is other than the medical institutions defined in WAC 182-500-0050 and group facilities defined in WAC 182-513-1100)) the following:

(a) WAC 388-478-0020 for temporary assistance for needy families (TANF), state family assistance (SFA), and refugee cash assistance (RCA);

(b) WAC 388-478-0027 for pregnant women assistance (PWA); or

(c) WAC 388-478-0033 for aged, blind, or disabled (ABD).

AMENDATORY SECTION (Amending WSR 19-24-032, filed 11/25/19, effective 1/1/20)

WAC 388-478-0015 Need standards for cash assistance. The monthly need and payment standards for cash assistance are based on a determination of the assistance unit size. The need standards for cash assistance units are:

(1) ~~((For assistance units with an obligation to pay shelter costs))~~ Effective January 1, 2020:

Assistance unit size	Need standard
1	\$1,520
2	1,923
3	2,374
4	2,801
5	3,229
6	3,656
7	4,226
8	4,677
9	5,128
10 or more	5,579

(2) ~~((For assistance units with shelter provided at no cost))~~ Effective January 1, 2021:

Assistance unit size	Need standard
1	(((\$695)) <u>\$1,538</u>
2	((880)) <u>1,946</u>
3	((1,086)) <u>2,402</u>
4	((1,281)) <u>2,834</u>
5	((1,477)) <u>3,267</u>
6	((1,672)) <u>3,699</u>

Assistance unit size	Need standard
7	((1,933)) <u>4,276</u>
8	((2,139)) <u>4,732</u>
9	((2,346)) <u>5,188</u>
10 or more	((2,552)) <u>5,645</u>

AMENDATORY SECTION (Amending WSR 18-09-088, filed 4/17/18, effective 7/1/18)

WAC 388-478-0020 Payment standards for TANF, SFA, and RCA. ~~((+))~~ The maximum monthly payment standards for temporary assistance for needy families (TANF), state family assistance (SFA), and refugee cash assistance (RCA) assistance units ~~((with obligations to pay shelter costs))~~ are:

Assistance unit size	Payment standard	Assistance unit size	Payment standard
1	\$363	6	\$877
2	459	7	1,013
3	569	8	1,121
4	670	9	1,231
5	772	10 or more	1,338

~~((2))~~ ~~The maximum monthly payment standards for TANF, SFA, and RCA assistance units with shelter provided at no cost are:))~~

((Assistance unit size))	((Payment standard))	((Assistance unit size))	((Payment standard))
((+))	((221))	((6))	((532))
((2))	((280))	((7))	((616))
((3))	((345))	((8))	((681))
((4))	((408))	((9))	((749))
((5))	((469))	((10 or more))	((813))

AMENDATORY SECTION (Amending WSR 19-21-056, filed 10/11/19, effective 11/11/19)

WAC 388-478-0027 What ~~((are))~~ is the payment ~~((standards))~~ standard for pregnant women assistance (PWA)? ~~((+))~~ The payment ~~((standards))~~ standard for a PWA cash assistance ~~((units with obligations to pay shelter costs are))~~ unit is:

Assistance Unit Size	Payment Standard
1	\$363

~~((2))~~ ~~The payment standards for PWA cash assistance units with shelter provided at no cost are:))~~

((Assistance Unit Size))	((Payment Standard))
((+))	((221))

AMENDATORY SECTION (Amending WSR 12-10-042, filed 4/27/12, effective 6/1/12)

WAC 388-478-0033 What are the payment standards for aged, blind, or disabled (ABD) cash assistance? ~~((+))~~ The payment standards for aged, blind, or disabled (ABD) cash assistance program assistance units ~~((with obligations to pay shelter costs))~~ are:

Assistance Unit Size	Payment standard
1	\$197
2	\$248

~~((2) The payment standards for aged, blind, or disabled (ABD) cash assistance units with shelter provided at no cost are:))~~

((Assistance Unit Size))	((Payment Standard))
((+))	((120))
((2))	((152))

AMENDATORY SECTION (Amending WSR 13-24-040, filed 11/26/13, effective 1/1/14)

WAC 388-478-0090 What are the monthly income limits for the aged, blind, or disabled (ABD) cash assistance and housing and essential needs (HEN) referral program? You must have countable income, as defined in WAC 388-450-0162, at or below the monthly income limit in order to receive aged, blind, or disabled (ABD) cash assistance or a referral to the housing and essential needs (HEN) program.

(1) The ABD cash assistance and HEN referral monthly income limits for individuals ~~((with an obligation to pay shelter costs))~~ are:

Assistance Unit Size	Monthly Income Limit
1	\$339
2	\$428

~~(2) ((The ABD cash assistance and HEN referral monthly income limits for individuals with shelter provided at no cost are:))~~

((Assistance Unit Size))	((Monthly Income Limit))
((+))	((206))
((2))	((26+))

~~((3))~~ The ABD cash assistance and HEN referral monthly income limits for individuals in medical institutions and group living facilities are:

Facility Type	Assistance Unit Size	Monthly Income Limit
Medical institutions (including nursing homes and hospitals)	1	\$41.62
Adult family homes	1	\$339.00

Facility Type	Assistance Unit Size	Monthly Income Limit
Boarding homes (including assisted living, enhanced residential centers (EARC), and adult residential centers (ARC))	1	\$38.84
Developmental disability administration (DDA) group homes	1	\$38.84
Mental health adult residential treatment facilities (ARTF)	1	\$38.84

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-478-0010 Households with obligations to pay shelter costs.

**WSR 20-20-010
PERMANENT RULES
HEALTH CARE AUTHORITY**

[Filed September 24, 2020, 2:21 p.m., effective January 1, 2021]

Effective Date of Rule: January 1, 2021.

Purpose: The agency is amending WAC 182-531-1550 to remove subsection (5), which describes the circumstances under which the agency waives the thirty day consent waiting period for sterilization. The agency has determined this rule amendment is necessary to align with federal rule, specifically 42 C.F.R. sections 50.203(d) and 50.204 (7)(e)(1).

Citation of Rules Affected by this Order: Amending WAC 182-531-1550.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 20-17-041 on August 10, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 24, 2020.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 20-06-034, filed 2/27/20, effective 3/29/20)

WAC 182-531-1550 Sterilization physician-related services. (1) For purposes of this section, sterilization is any medical procedure, treatment, or operation for the purpose of rendering a client permanently incapable of reproducing.

Hysterectomy results in sterilization and is not covered by the medicaid agency solely for that purpose. (See WAC 182-531-0150 and 182-531-0200 for more information about hysterectomies.)

STERILIZATION

(2) The agency covers sterilization when all of the following apply:

- (a) The client is at least eighteen years of age at the time an agency-approved consent form is signed;
- (b) The client is a mentally competent individual;
- (c) The client participates in a medical assistance program (see WAC 182-501-0060);
- (d) The client has voluntarily given informed consent; and
- (e) The date the client signed a sterilization consent is at least thirty days and not more than one hundred eighty days before the date of the sterilization procedure.

(3) Any medicaid provider who is licensed to do sterilizations within their scope of practice may provide vasectomies and tubal sterilizations to any medicaid client.

(4) The agency requires at least a seventy-two hour waiting period rather than the usual thirty-day waiting period for sterilization in either of the following circumstances:

(a) At the time of a premature delivery when the client gave consent at least thirty days before the expected date of delivery. (The expected date of delivery must be documented on the consent form.)

(b) For emergency abdominal surgery. (The nature of the emergency must be described on the consent form.)

(5) ~~((The agency waives the thirty-day consent waiting period for sterilization when the client requests that sterilization be performed at the time of delivery and completes a sterilization consent form. One of the following circumstances must apply:~~

~~(a) The client became eligible for medical assistance during the last month of pregnancy;~~

~~(b) The client did not obtain medical care until the last month of pregnancy; or~~

~~(c) The client was a substance abuser during pregnancy, but is not using alcohol or illegal drugs at the time of delivery.~~

~~((6))~~ The agency does not accept informed consent obtained when the client is:

- (a) In labor or childbirth;
- (b) In the process of seeking to obtain or obtaining an abortion; or

(c) Under the influence of alcohol or other substances, including pain medications for labor and delivery, that affects the client's state of awareness.

~~((7))~~ (6) The agency has certain consent requirements that the provider must meet before the agency reimburses sterilization of an institutionalized client or a client with mental incompetence. The agency requires both of the following:

(a) A court order, which includes both a statement that the client is to be sterilized, and the name of the client's legal guardian who will be giving consent for the sterilization; and

(b) A sterilization consent form signed by the legal guardian, sent to the agency at least thirty days before the procedure.

~~((8))~~ (7) The agency reimburses epidural anesthesia in excess of the six-hour limit for deliveries if sterilization procedures are performed in conjunction with or immediately following a delivery.

(a) For reimbursement, anesthesia time for sterilization is added to the time for the delivery when the two procedures are performed during the same operative session.

(b) If the sterilization and delivery are performed during different operative sessions, the anesthesia time is calculated separately.

~~((9))~~ (8) The agency reimburses all attending providers for the sterilization procedure only when the provider submits an agency-approved and complete consent form with the claim for reimbursement.

(a) The physician must complete and sign the physician statement on the consent form within thirty days of the sterilization procedure.

(b) The agency reimburses attending providers after the procedure is completed.

WSR 20-20-011

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed September 24, 2020, 2:27 p.m., effective October 25, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The agency is amending WAC 182-538-060 and 182-538-067 to help ensure (1) the viability of apple health integrated managed care (IMC) plans; (2) adequate performance by the IMC plans; (3) sufficient access to care for medicaid clients in IMC; and (4) the continued availability of an adequate network of physical and behavioral health providers in IMC plans. The health care authority (HCA) is amending WAC 182-538-060 to limit the auto-assignments of medicaid clients to IMC plans. In particular, HCA will prevent auto-assignments of new clients to any plan that has a statewide market share of greater than forty percent in apple health IMC. This rule does not affect voluntary plan choices by clients, the family connect policy, or the plan reconnect policy. HCA is amending WAC 182-538-067 to clarify when the agency will adjust the number of its IMC plans, either overall or on a region-to-region basis. In determining whether to make any such adjustment, HCA will consider statutory requirements as well as enrollment needs, the performance of the plans with respect to behavioral health integration, and the promotion of access to care for behavioral health services.

Citation of Rules Affected by this Order: Amending WAC 182-538-060 and 182-538-067.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 20-17-122 on August 18, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: September 24, 2020.

Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-24-063, filed 11/27/19, effective 1/1/20)

WAC 182-538-060 Managed care choice and assignment. (1) The medicaid agency requires a client to enroll in integrated managed care (IMC) when that client:

(a) Is eligible for one of the Washington apple health programs for which enrollment is mandatory;

(b) Resides in an area where enrollment is mandatory; and

(c) Is not exempt from IMC enrollment and the agency has not ended the client's managed care enrollment, consistent with WAC 182-538-130.

(2) American Indian and Alaska native (AI/AN) clients and their descendants may choose one of the following:

(a) Enrollment with a managed care organization (MCO) available in their regional service area;

(b) Enrollment with a PCCM provider through a tribal clinic or urban Indian center available in their area; or

(c) The agency's fee-for-service system for physical health or behavioral health or both.

(3) To enroll with an MCO or PCCM provider, a client may:

(a) Enroll online via the Washington Healthplanfinder at <https://www.wahealthplanfinder.org>;

(b) Call the agency's toll-free enrollment line at 800-562-3022; or

(c) Go to the ProviderOne client portal at <https://www.waproviderone.org/client> and follow the instructions.

(4) An enrollee in IMC must enroll with an MCO available in the regional service area where the enrollee resides.

(5) All family members will be enrolled with the same MCO, except family members of an enrollee placed in the patient review and coordination (PRC) program under WAC

182-501-0135 need not enroll in the same MCO as the family member placed in the PRC program.

(6) An enrollee may be placed into the PRC program by the MCO or the agency. An enrollee placed in the PRC program must follow the enrollment requirements of the program as stated in WAC 182-501-0135.

(7) When a client requests enrollment with an MCO or PCCM provider, the agency enrolls a client effective the earliest possible date given the requirements of the agency's enrollment system.

(8) The agency assigns a client who does not choose an MCO or PCCM provider as follows:

(a) If the client was enrolled with an MCO or PCCM provider within the previous six months, the client is reenrolled with the same MCO or PCCM provider;

(b) If (a) of this subsection does not apply and the client has a family member enrolled with an MCO, the client is enrolled with that MCO;

(c) The client is reenrolled within the previous six months with their prior MCO plan if:

(i) The agency identifies the prior MCO and the program is available; and

(ii) The client does not have a family member enrolled with an agency-contracted MCO or PCCM provider.

(d) If the client has a break in eligibility of less than two months, the client will be automatically reenrolled with his or her previous MCO or PCCM provider and no notice will be sent; or

(e) If the client cannot be assigned according to (a), (b), (c), or (d) of this subsection, the agency (~~assigns the client according to agency policy~~):

(i) Assigns the client according to agency policy, or this rule, or both;

(ii) Does not assign clients to any MCO that has a total statewide market share of forty percent or more of clients who are enrolled in apple health IMC. On a quarterly basis, the agency reviews enrollment data to determine each MCO's statewide market share in apple health IMC;

(iii) Applies performance measures associated with increasing or reducing assignment consistent with this rule and agency policy or its contracts with MCOs.

(f) If the client cannot be assigned according to (a) or (b) of this subsection, the agency assigns the client as follows:

(i) If a client who is not AI/AN does not choose an MCO, the agency assigns the client to an MCO available in the area where the client resides. The MCO is responsible for primary care provider (PCP) choice and assignment.

(ii) For clients who are newly eligible or who have had a break in eligibility of more than six months, the agency sends a written notice to each household of one or more clients who are assigned to an MCO. The assigned client has ten calendar days to contact the agency to change the MCO assignment before enrollment is effective. The notice includes:

(A) The agency's toll-free number;

(B) The toll-free number and name of the MCO to which each client has been assigned;

(C) The effective date of enrollment; and

(D) The date by which the client must respond in order to change the assignment.

(9) An MCO enrollee's selection of a PCP or assignment to a PCP occurs as follows:

(a) An MCO enrollee may choose:

(i) A PCP or clinic that is in the enrollee's MCO and accepting new enrollees; or

(ii) A different PCP or clinic participating with the enrollee's MCO for different family members.

(b) The MCO assigns a PCP or clinic that meets the access standards set forth in the relevant managed care contract if the enrollee does not choose a PCP or clinic.

(c) An MCO enrollee may change PCPs or clinics in an MCO for any reason, with the change becoming effective no later than the beginning of the month following the enrollee's request.

(d) An MCO enrollee may file a grievance with the MCO if the MCO does not approve an enrollee's request to change PCPs or clinics.

(e) MCO enrollees required to participate in the agency's PRC program may be limited in their right to change PCPs (see WAC 182-501-0135).

AMENDATORY SECTION (Amending WSR 19-24-063, filed 11/27/19, effective 1/1/20)

WAC 182-538-067 Qualifications to become a managed care organization (MCO) in integrated managed care. (1) To provide physical or behavioral health services under the apple health IMC (~~((medicaid))~~) contract, a managed care organization (MCO) must:

(a) ~~((An MCO must))~~ Contract with the agency~~((;-))~~; and

(b) ~~((MCO must also))~~ Contract with an agency-contracted behavioral health administrative service organization (BH-ASO) that maintains an adequate provider network to deliver services to clients in IMC regional service areas.

(2) ~~((A managed care organization (-))~~ An MCO~~((+))~~ must meet the following qualifications to be eligible to contract with the ~~((medicaid))~~ agency:

(a) Have a certificate of registration from the Washington state office of the insurance commissioner (OIC) that allows the MCO to provide health care services under a risk-based contract;

(b) Accept the terms and conditions of the agency's managed care contract;

(c) ~~((Be able to))~~ Meet the network and quality standards established by the agency; and

(d) Pass a readiness review, including an on-site visit conducted by the agency.

(3) ~~((At its discretion, the agency awards a contract to an MCO through a competitive process or an application process available to all qualified providers.))~~ (a) The agency may from time to time conduct a procurement for new apple health MCOs or to reduce or expand the use of existing apple health MCOs.

(b) The agency may conduct a procurement when the agency determines in its sole discretion there is a need to:

(i) Expand or reduce current MCO contracts;

(ii) Enhance current MCO provider networks; or

(iii) Establish new contracts for integrated managed care in one or more regional services areas; or

(iv) Adjust the program to ensure adherence to state and federal law.

(c) In accordance with RCW 74.09.522 and 74.09.871, the agency will give significant weight to the following factors in any procurement process:

(i) Demonstrated commitment to, and experience in, serving low-income populations;

(ii) Demonstrated commitment to, and experience in, serving persons who have mental illness, substance use disorders, or co-occurring disorders;

(iii) Demonstrated commitment to, and experience with, partnerships with county and municipal criminal justice systems, housing services, and other critical support services necessary to achieve the outcomes established in RCW 70.320.020, 71.24.435, and 71.36.025;

(iv) Recognition that meeting enrollees' physical and behavioral health care needs is a shared responsibility of contracted behavioral health administrative services organizations, MCOs, service providers, the state, and communities;

(v) Consideration of past and current performance and participation in other state or federal behavioral health programs as a contractor;

(vi) Quality of services provided to enrollees under previous contracts with the state of Washington or other states;

(vii) Accessibility, including appropriate utilization, of services offered to enrollees;

(viii) Demonstrated capability to perform contracted services, including the ability to supply an adequate provider network; and

(ix) The ability to meet any other requirements established by the agency.

(d) The agency may define and consider additional factors as part of any procurement including, but not limited to:

(i) Timely processing of, and payments to, providers in the MCO networks, including reconciliation of outstanding payments; and

(ii) The optimal number of MCOs per regional services area, based on population and in the manner that the agency determines most beneficial for the program, clients, and providers.

(4) The agency reserves the right not to contract with any otherwise qualified MCO.

WSR 20-20-015

PERMANENT RULES

PUGET SOUND

CLEAN AIR AGENCY

[Filed September 25, 2020, 10:01 a.m., effective November 1, 2020]

Effective Date of Rule: November 1, 2020.

Purpose: Section 3.11 - The agency's practice for many years has been to annually adjust the maximum civil penalty amount as allowed by law. The proposed adjustment to the maximum civil penalty amount accounts for inflation, as authorized by RCW 70.94.431 and as determined by the state office of the economic and revenue forecast council. Without this adjustment, the maximum penalty amount would effectively decrease each year. The CPI for the Seattle/Tacoma/

Bellevue area increased by 2.04% for the 2019 calendar year, which amounts to an increase of \$410.00 in the maximum civil penalty amount. The agency has used the consumer price index for wage earners in the Puget Sound region for many years to make this inflation-based adjustment because it reflects the data of what happened (i.e. not a forecast) and it represents local economic information.

The proposed amendment does not affect the way the agency determines actual civil penalty amounts in individual cases. This continues to be done following civil penalty worksheets previously approved by the board.

Section 3.25 - This section currently provides that whenever federal rules are referenced in agency regulations, the effective date of the federal regulations referred to is July 1, 2019. This provides certainty so that persons affected by the regulations and agency staff know which version of a federal regulation to reference. For many years, the agency's practice has been to update this date annually to stay current with federal regulations. Following this practice, the proposed amendments would change the reference date to July 1, 2020.

Citation of Rules Affected by this Order: Amending Regulation I, Sections 3.11 (Civil Penalties) and 3.25 (Federal Regulation Reference Date).

Statutory Authority for Adoption: Chapter 70.94 RCW.

Adopted under notice filed as WSR 20-17-142 on August 19, 2020.

Date Adopted: September 24, 2020.

Craig Kenworthy
Executive Director

AMENDATORY SECTION

SECTION 3.11 CIVIL PENALTIES

(a) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed \$((~~20,131.00~~)) 20,541.00, per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than \$((~~20,131.00~~)) 20,541.00, for each day of continued noncompliance.

(c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.

(d) A mitigation request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the party requesting mitigation;

(2) A copy of the Notice and Order of Civil Penalty involved;

(3) A short and plain statement showing the grounds upon which the party requesting mitigation considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the party requesting mitigation relies to sustain his or her grounds for mitigation;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the party requesting mitigation has read the mitigation request and believes the contents to be true, followed by the party's signature.

The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. An appeal must be filed with the Hearings Board and served on the Agency within 30 days of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.

(f) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(g) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

AMENDATORY SECTION

SECTION 3.25 FEDERAL REGULATION REFERENCE DATE

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, ((2019)) 2020.

WSR 20-20-030
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed September 29, 2020, 2:58 p.m., effective November 1, 2020]

Effective Date of Rule: November 1, 2020.

Purpose: WAC 246-338-990 Fees, the department of health (department) is raising fees for medical test sites. To address the rising costs of the medical test site program, address the negative cash flow, and build the recommended reserve, the department is raising medical test site licensing and renewal fees by twenty-five percent across all license categories effective November 1, 2020.

Citation of Rules Affected by this Order: Amending WAC 246-338-990.

Statutory Authority for Adoption: RCW 43.70.250, 70.42.090.

Adopted under notice filed as WSR 20-14-106 on June 30, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: September 28, 2020.

Jessica Todorovich
 Chief of Staff
 for John Wiesman, DrPH, MPH
 Secretary

AMENDATORY SECTION (Amending WSR 06-15-132, filed 7/19/06, effective 8/19/06)

WAC 246-338-990 Fees. (1) The department will assess and collect biennial fees for medical test sites as follows:

(a) Charge fees, based on the requirements authorized under RCW 70.42.090 and this section;

(b) Assess additional fees when changes listed in WAC 246-338-026 occur that require a different type of license than what the medical test site currently holds;

(c) Charge prorated fees for the remainder of the two-year cycle when the owner or applicant applies for an initial license during a biennium as defined under WAC 246-338-022 (2)(c);

(d) Charge prorated fees for licenses issued for less than a two-year period under WAC 246-338-024(3); and

(e) Determine fees according to criteria described in Table 990-1.

Table 990-1 License Categories and Fees

Category of License	Number of Tests/Year	Biennial Fee
Certificate of Waiver	N/A	\$(150) <u>190</u>
PPMP	N/A	\$(200) <u>250</u>
Low Volume	1-2,000 tests	\$(450) <u>560</u>
Category A	2,001-10,000 tests, 1-3 specialties	\$(1,364) <u>1,710</u>
Category B	2,001-10,000 tests, 4 or more specialties	\$(1,769) <u>2,210</u>
Category C	10,001-25,000 tests, 1-3 specialties	\$(2,454) <u>3,070</u>
Category D	10,001-25,000 tests, 4 or more specialties	\$(2,818) <u>3,520</u>
Category E	25,001-50,000 tests	\$(3,382) <u>4,230</u>
Category F	50,001-75,000 tests	\$(4,187) <u>5,230</u>
Category G	75,001-100,000 tests	\$(4,994) <u>6,240</u>
Category H	100,001-500,000 tests	\$(5,835) <u>7,290</u>
Category I	500,001-1,000,000 tests	\$(10,369) <u>12,960</u>
Category J	> 1,000,000 tests	\$(12,443) <u>15,550</u>
Accredited:		
Low Volume	1-2,000 tests	\$(165) <u>210</u>
Category A	2,001-10,000 tests, 1-3 specialties	\$(214) <u>260</u>
Category B	2,001-10,000 tests, 4 or more specialties	\$(234) <u>290</u>
Category C	10,001-25,000 tests, 1-3 specialties	\$(534) <u>660</u>
Category D	10,001-25,000 tests, 4 or more specialties	\$(559) <u>700</u>

Table 990-1 License Categories and Fees

Category of License	Number of Tests/Year	Biennial Fee
Category E	25,001-50,000 tests	\$(787) 980
Category F	50,001-75,000 tests	\$(1,254) 1,570
Category G	75,001-100,000 tests	\$(1,722) 2,150
Category H	100,001-500,000 tests	\$(2,227) 2,780
Category I	500,001-1,000,000 tests	\$(6,428) 8,040
Category J	> 1,000,000 tests	\$(8,168) 10,210
Follow-up survey for deficiencies		Direct staff time
Complaint investigation		Direct staff time

(2) The following programs are excluded from fee charges when performing only waived hematocrit or hemoglobin testing for nutritional evaluation and food distribution purposes:

- (a) Women, infant and children programs (WIC); and
- (b) Washington state migrant council.

**WSR 20-20-036
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed September 30, 2020, 9:18 a.m., effective September 30, 2020]

Effective Date of Rule: September 30, 2020.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: The September 30, 2020, effective date is appropriate under RCW 34.05.380 (3)(a) because RCW 82.04.280 (1)(f) requires this rule to be effective by September 30, 2020.

Purpose: The purpose of the rule making is to update WAC 458-20-241 to reflect the 2019 legislative amendments to RCW 82.04.280 made by chapter 449, Laws of 2019 (HB 2035) and to make other changes to improve readability, clarity, and compliance/administration.

Citation of Rules Affected by this Order: Amending WAC 458-20-241.

Statutory Authority for Adoption: RCW 82.04.280, 82.32.300, and 82.01.060.

Adopted under notice filed as WSR 20-17-138 on August 18, 2020.

A final cost-benefit analysis is available by contacting Tim Danforth, 6400 Linderson Way S.W., Tumwater, WA 98501, phone 360-534-1538, fax 360-534-1526, email TimD@dor.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2020.

Atif Aziz
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-126, filed 12/19/14, effective 1/19/15)

WAC 458-20-241 Radio and television broadcasting.

(1) Introduction.

(a) This section provides tax reporting instructions for persons in the radio and television broadcasting industry. It explains the application of business and occupation (B&O) tax, retail sales tax, and use tax to the industry and provides an explanation of the various deductions available.

(b) For a discussion of the tax liabilities of subscriber television services, see WAC 458-20-227.

(c) For a discussion of the taxability of digital products, see WAC 458-20-15503.

(2) Definitions. For the purpose of this rule:

(a) "Broadcast" or "broadcasting" includes both radio and television commercial broadcasting stations unless it clearly appears from the context to refer only to radio or television.

(b) "Local advertising" means all broadcast advertising other than national, network, or regional advertising as herein defined.

(c) "National advertising" means broadcast advertising paid for by sponsors (~~which~~) that supply goods or services on a national or international basis.

(d) "Network advertising" means broadcast advertising originated by national or regional broadcast networks from outside the state of Washington, the broadcast advertising being supplied by national or regional network broadcasting companies.

(e) "Regional advertising" means broadcast advertising paid for by sponsors (~~which~~) that supply goods or services on a regional basis over two or more states.

(3) Business and occupation tax classifications. Persons in the radio and television broadcasting industry must report business and occupation (B&O) tax based on the B&O classification of their income, as follows:

(a) **Radio and television broadcasting.** ~~((Taxable on))~~ Gross income from the sale of radio or television advertising((-)) is taxable under the radio and television broadcasting classification, subject to the deduction authorized under

RCW 82.04.280 (1)(f)(i) or (ii). (See subsection (4)(b) of this section for more information on the deduction):

(b) **Service and other activities.** ~~((Taxable on))~~ Gross income from personal or professional services~~(, including)~~ not taxed under a different classification, such as gross income from producing and making custom commercials or ~~((special programs))~~ custom-made programing, fees for providing writers, directors, artists, and technicians, and granting a license to use facilities (as distinct from the leasing or renting of tangible personal property, see WAC 458-20-211)(-)) is taxable under the service and other classification:

(c) **Royalties.** ~~((Taxable on))~~ Gross income from charges to other broadcasters for granting the right to use intangible property (e.g., the right to use broadcast material)(-)) is taxable under the royalties classification:

(d) **Retailing or wholesaling.** ~~((Taxable on gross proceeds of))~~ Gross income from sales of tangible personal property to consumers, including gross proceeds from sales of films and tape produced for general distribution and from sales of copies of commercials, programs, films, etc., is taxable under the retailing classification even though the original was not subject to retail sales tax. Gross income from sales of tangible personal property to persons other than consumers is taxable under the wholesaling classification. Gross income from the sale of custom-made programs, commercials, films, etc., is ~~((not))~~ taxable under ~~((this classification. (See subheading Service and other activities in (b) of this subsection.))~~ the service and other activities classification: and

(e) **Manufacturing.** ~~((Taxable on the cost to produce special))~~ The value of programs, such as public affairs, religious, travelogues, and other general programming, which are distributed via tangible media to other broadcasters under a lease or contract granting a mere license to use, is taxable under the manufacturing classification. (For a discussion of the taxability of digital products transferred electronically, see WAC 458-20-15503.) ~~((This))~~ Manufacturing B&O tax does not apply to a recording made for the broadcaster's own use, including news, delayed programs, commercials and promotions, special and syndicated programming, and "entire day" programming.

(4) Deductions from gross income from advertising.

(a) **Agency fees.** It is a general trade practice in the broadcasting industry to make allowances to advertising agencies in the form of the deduction or exclusion of a certain percentage of the gross charge made for advertising ordered by the agency for the advertiser. This allowance is deductible as a discount in the computation of the broadcaster's tax liability in the event that the allowance is shown as a discount or price reduction in the billing or that the billing is on a net basis, i.e., less the discount.

(b) **Gross receipts from national, network, and regional advertising.** The ~~((taxpayer))~~ broadcasting station may deduct actual gross receipts from national, network, and regional advertising, as included in the gross amount reported under radio and television broadcasting, either by using the "standard deduction" or by itemization of the individual broadcasting station's actual receipts.

(i) The "standard deduction" for gross receipts from national, network, and regional advertising as provided by

RCW 82.04.280, ~~((represents))~~ is a percentage based on the national average ~~((thereof as annually reported by the Federal Communications Commission. The Federal Communications Commission no longer publishes these figures and henceforth the "standard deduction" is not available. Broadcasters may only))~~ of national, network, and regional advertising as reported by the United States Census Bureau's economic census. The standard deduction percentage must be published by the department by rule by September 30, 2020, and by September 30th of every fifth year thereafter. The standard deduction percentage as of September 30, 2020, is sixty-two percent.

(ii) As an alternative to using the standard deduction in (b)(i) of this subsection, a broadcasting station may opt to deduct gross receipts from national, network, and regional advertising on an ~~((actual basis))~~ by itemizing the actual receipts therefrom.

(c) **Allocation of local advertising revenues.** Revenues from local advertising may be allocated to remove from the tax base the gross income from advertising ~~((which))~~ that is intended to reach potential customers of the advertiser who are located outside the state of Washington.

(i) **Presumption.** It will be presumed that the entire gross income of radio and television stations located within the state of Washington from local advertising is subject to tax unless ~~((and until))~~ the taxpayer submits proof to the department ~~((of revenue))~~ that some portion of such income is exempt according to the principles set forth herein and until a specific allocation formula has been approved by the department.

~~((d))~~ **(ii) Method of allocation.**

(A) When the total daytime listening area of a radio or television station extends beyond the boundaries of the state of Washington, the allowable deduction is that portion of revenue represented by the out-of-state audience computed as a ratio to the broadcasting station's total audience as measured by the ~~((100 microvolt signal strength and delivery by wire, if any))~~ .5 millivolt/meter signal strength contour for AM radio, the one millivolt/meter or sixty dBu signal strength contour for FM radio, the twenty-eight dBu signal strength contour for television channels two through six, the thirty-six dBu signal strength contour for television channels seven through thirteen, and the forty-one dBu signal strength contour for television channels fourteen through sixty-nine with delivery by wire, satellite, or any other means, if any. The out-of-state audience may therefore be determined by delivery "over the air" and by community antenna television systems. However, community antenna television audiences may not be claimed by a station in the same area in which it claims an audience served over the air, thus eliminating a claim for double exemption.

(B) The most current United States and Canadian census figures must be used to determine the in-state and out-of-state audience.

~~((An engineer holding at least a first class operator's license from the Federal Communications Commission or an equivalent license must compute the 100 microvolt contour for the station claiming the exemption. The 100 microvolt contour will be applicable to all broadcasting stations, whether standard (AM), frequency modulation (FM), or tele-~~

vision (TV), and the applicable contour will be the daytime ground-wave contour. The computation must be submitted to the department of revenue in map form, showing the scale used in miles, with the contour drawn on the map and the counties or cities within the contour indicated. The map must be certified as being correct by the personal signature of the engineer making the computation. The type of license held by the engineer should be indicated. The map must have attached to it the population covered both within and without the state according to the applicable United States and Canadian census.)

(C) In the event that community antenna television subscribers are claimed as part of the out-of-state audience, the name of the systems, the location, and the number of subscribers must ~~((also))~~ be ~~((attached to the map))~~ provided to the department upon request. The number of subscribers will be multiplied by a factor of ~~((3))~~ 2.5, representing the average size household ~~((family~~.

The foregoing exhibits must be approved by the department before any deduction is allowable)).

(D) Upon request by the department, the broadcasting station must submit documentation substantiating the computation of the out-of-state exclusion to the department, as directed.

(5) **Retail sales tax.** ~~((Sales to))~~

(a) Purchases by broadcasters of equipment, supplies and materials for the broadcaster's own use and not for resale are subject to the retail sales tax. This includes ~~((sales))~~ purchases of raw or unprocessed film, magnetic tape, DVDs, and other transcription material.

(b) If the tapes, films, etc., upon which the sales tax has been paid are later sold by the broadcaster in the regular course of business, the provisions of WAC 458-20-102 concerning purchases for dual purposes will apply.

(c) The broadcaster must collect retail sales tax on sales to consumers of packaged films, programs, etc., produced for general distribution, including training and industrial films, and also on sales of copies of films, commercials, programs, etc., even though the original was not subjected to retail sales tax.

(6) **Use tax.**

(a) Acquisition or exercise of the right to broadcast material under a right or license granted by lease or contract is not the use of tangible personal property by the broadcaster and the use tax is not applicable.

(b) Broadcasters of radio and television programs are subject to use tax on the value of articles manufactured or produced by them for their own use (excluding custom produced commercials or special programs which include ~~((s))~~), but is not necessarily limited to, recordings of news, delayed programs, commercials and promotions, special and syndicated programming, and "entire day" programming) and on the use of tangible personal property purchased or acquired under conditions whereby the retail sales tax has not been paid. The broadcaster is liable for use tax on the value (cost of production) of programming when the broadcaster sells merely the right to broadcast such material under a right or license granted by lease or contract.

WSR 20-20-038
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed September 30, 2020, 11:00 a.m., effective October 31, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Chapter 314-05 WAC, Special occasion licenses, the Washington state liquor and cannabis board has adopted amendments to existing special occasion license rules to update, modernize, and clarify existing language.

Citation of Rules Affected by this Order: Amending WAC 314-05-020, 314-05-025, 314-05-030, and 314-05-035.

Statutory Authority for Adoption: RCW 66.08.030.

Adopted under notice filed as WSR 20-12-024 on May 27, 2020.

A final cost-benefit analysis is available by contacting Audrey Vasek, 1025 Union Avenue S.E., Olympia, WA 98501, phone 360-664-1758, fax 360-664-9689, email rules@lcb.wa.gov, website www.lcb.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: September 30, 2020.

Jane Rushford
Chair

AMENDATORY SECTION (Amending WSR 17-08-099, filed 4/5/17, effective 5/6/17)

WAC 314-05-020 ~~((What is a))~~ Special occasion license ~~((?))~~, (1) ~~((Per))~~ Consistent with RCW 66.24.380, a special occasion license allows a nonprofit organization to sell, at a specified date, time, and place:

(a) Spirits, beer, and wine by the individual serving and wine by the bottle for on-premises consumption; and

(b) Spirits, beer, and wine in original, unopened containers for off-premises consumption ~~((; and~~

~~((c) Wine in original, unopened containers for on-premises consumption if permission is obtained from the WSLCB prior to the event)).~~

(2) Special occasion licensees ~~((are limited to))~~ may have no more than twelve days of events per calendar year (see RCW 66.24.380(1) for an exception for agricultural fairs).

(3) The fee for ~~((this))~~ the special occasion license is ~~(((\$60))~~ sixty dollars per day, per event. Multiple alcohol service locations at an event are an additional sixty dollars per location.

(4) ~~((Per RCW 66.24.375, all proceeds from the sale of alcohol at a special occasion event must go directly back into the nonprofit organization, except for reasonable operating costs for actual services performed at compensation levels comparable to like services within the state.~~

~~((5) A charitable nonprofit organization or a local winery industry association is not disqualified from obtaining a special occasion license even if its board members are also officers, directors, owners, or employees of either a licensed domestic winery or a winery certificate of approval holder. The charitable nonprofit organization must be registered under section 501 (e)(3) of the Internal Revenue Code, and the local wine industry association must be registered under section 501 (e)(6) of the Internal Revenue Code.~~

~~((6) If a winery is taking orders and accepting payment for product of its own production from consumers at a special occasion event to be delivered at a later date from one of its authorized locations, the special occasion shall include the name of the winery on the special occasion license application.))~~ A special occasion license is a retail liquor license. Nonprofit organizations must comply with applicable retail liquor license requirements when operating under the special occasion license.

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-05-025 Application process for a special occasion license. (1) Special occasion applications ~~((normally take))~~ should:

(a) Be submitted at least forty-five days ~~((to process. The liquor and cannabis board may not be able to process your application in time for your event if you do not apply at least forty-five days before the event.~~

~~((2) Per))~~ prior to an event where no minors will attend;

(b) Be submitted with an application addendum at least sixty days prior to an event where the applicant requests minors in attendance; or

(c) Applications submitted less than the required forty-five or sixty days prior to the event might not be approved.

(2) Special occasion applications must include:

(a) Documentation verifying that the organization is a registered nonprofit with the Washington secretary of state or with the Internal Revenue Service;

(b) The name of any winery that will be taking orders at the event and accepting payment for wine of its own production to be delivered at a later date; and

(c) Any additional relevant information requested by the board.

(3) Consistent with RCW 66.24.010(8), ~~((when the liquor and cannabis board receives a special occasion application, it))~~ the board must send a notice to the local authority for each application received. The local authority has twenty days to respond ~~((with any input, and they may))~~ or request an extension for good cause.

~~((3) The liquor and cannabis))~~ (4) The board may ~~((run))~~ conduct a criminal history check on the organization's officers and/or managers.

~~((4) The liquor and cannabis board requires documentation to verify the organization is a bona fide nonprofit, who the true party(ies) of interest are in the organization, and that the organization meets the guidelines outlined in WAC 314-05-020 and 314-05-025.~~

(5) See chapter 314-07 WAC regarding possible reasons for denial of a special occasion license.)) (5) Special occasion licenses may be denied for reasons including, but not limited to, those outlined in chapter 314-07 WAC. Denials are subject to the provisions of the Administrative Procedure Act, chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-05-030 ((Guidelines)) Requirements for special occasion license events. (1) The special occasion license must be posted at each alcohol service area at the event.

(2) ~~((Special occasion licensees may get alcohol for the event only from the following sources:~~

~~((a))~~ Consistent with RCW 66.28.070, all spirits, beer, and wine ~~((must be purchased at retail from))~~ purchased for the event by the special occasion licensee may only be purchased in the manufacturer's approved container or package from the following:

(a) A licensed off-premises retailer; ~~((from a spirits, beer, or wine))~~

(b) A distributor; ~~((from a distiller, a craft distiller,))~~

(c) A distillery or craft distillery;

(d) A domestic brewery(ies) or microbrewery(ies);

(e) A winery ~~((acting as a distributor of its own product)); or~~ ~~((from))~~

(f) A certificate of approval holder with a direct shipping to Washington retailer endorsement.

(3) Consistent with RCW 66.28.310, special occasion licensees are allowed to pay for beer ~~((or)),~~ wine, and spirits used for the special occasion event immediately following the end of the ~~((special occasion))~~ event ~~((; and~~

~~((b) Per)).~~

(4) Consistent with RCW 66.28.040, alcohol may be donated to special occasion licensees registered as 501(c)(3) and 501(c)(6) for the event as follows:

(a) In state breweries ~~((and wineries, out-of-state breweries and wineries holding a certificate of approval license, domestic distillers or an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate beer, wine, and spirits to special occasion licensees that are nonprofit 501 (e)(3) charitable organizations or nonprofit 501 (e)(6) organizations.~~

(3) Special occasion licensees may not advertise or sell alcohol below cost. If donated product is sold by the special occasion licensee, it may not be advertised or sold below the manufacturers' cost.

(4) Per RCW 66.28.310, alcohol manufacturers, importers and distributors may provide advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or

judging event, but may not provide money, goods, or services to special occasion licensees.

~~(a) Wineries and distilleries may pour at any special occasion event) and beer certificate of approval holders may donate beer;~~

~~(b) In state wineries and wine certificate of approval holders may donate wine;~~

~~(c) An accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor may donate spirits.~~

~~(5) Alcohol may not be provided, or advertised as being provided, to the public free of charge at the special occasion event.~~

~~(6) Alcohol may not be sold, or advertised as being sold, below the manufacturer's cost at the special occasion event.~~

~~(7) If alcohol is auctioned at the event, the final sale price may not be below the manufacturer's cost.~~

~~(8) If tickets are sold for the special occasion event and the ticket fee includes alcohol for event attendees, the ticket must be sold directly by the nonprofit organization and may not be sold by a third party. In order to ensure alcohol is not being given away or sold below the manufacturer's cost, if the ticket fee includes alcohol the total ticket fee must be above the manufacturer's cost of the included alcohol.~~

~~(9) Consistent with RCW 66.24.375, no portion of the profits from special occasion events may be paid directly or indirectly to members, officers, directors, or trustees of the nonprofit organization except for services performed for the organization.~~

~~((b)) (10) Wineries ((or)), breweries ((that are)), and distilleries participating in a special occasion event may pay ((reasonable)) booth fees to the special occasion licensee. Booth fees must be uniform for all participating wineries ((and)), breweries, and distilleries.~~

~~((5) Per) (11) Breweries may provide installation of draft beer dispensing equipment for a special occasion event.~~

~~(12) Pouring or dispensing may be provided at any type of special occasion event by wineries, distilleries, or spirits distributors.~~

~~(13) Pouring or dispensing may be provided by breweries at a beer tasting exhibition or judging event. A beer tasting exhibition or judging event must be sponsored by the special occasion licensee and have at least three breweries represented that are pouring samples.~~

~~(14) Consistent with RCW 66.24.380, the sale, service, and consumption of alcohol must be confined to a designated ((location(s))) area.~~

~~((6)) (15) If a special occasion ((license function)) event is held at an establishment that has a liquor license:~~

~~(a) The special occasion ((function)) event must be ((held in an)) in a designated area of the licensed premises separate from areas open to the general public ((during the time the special occasion function is occurring, and));~~

~~(b) The licensed premises' liquor cannot be sold or served in ((the same area(s) as)) the designated special occasion ((license function-~~

~~(b)) event area;~~

~~(c) The liquor licensee cannot charge for the liquor purchased and brought by the special occasion licensee for ser-~~

~~vice at the ((special occasion event, but can charge for room usage, services, etc.)) event;~~

~~(d) The liquor licensee must sign the special occasion application acknowledging that they will not sell or serve their liquor at the event and giving permission for the special occasion licensee to bring and sell their ((alcohol)) liquor at the liquor licensed premises((-~~

~~(e)); and~~

~~(e) The special occasion ((license will not be issued for use)) event cannot be held at a premises ((whose)) where the liquor license will be suspended by the board on the date(s) of the scheduled event.~~

AMENDATORY SECTION (Amending WSR 16-01-102, filed 12/16/15, effective 1/16/16)

WAC 314-05-035 Advertising and branded promotional items for special occasion events. (1) ~~((Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association, exempt from taxation under 26 U.S.C. Sec. 501 (c)(3) of the Internal Revenue Code as it existed on the effective date of this section for use consistent with the purpose entitling it to such exemptions. Branded promotional items may not be targeted to or be especially appealing to youth.~~

~~(2) If the nonprofit charitable corporation or association applies for and receives a special occasion license, they are considered a liquor retailer and are required to comply with RCW 66.28.305. Branded promotional items:~~

~~(a) Must be used exclusively by the retailer in a manner consistent with its license;~~

~~(b) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;~~

~~(c) May be provided by industry members only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and~~

~~(d) May not be targeted to or be especially appealing to youth.~~

~~((3)) Special occasion licensees and industry members must comply with RCW 66.28.285 through 66.28.310, regarding the three-tier system, direct and indirect interests between industry members and retailers, undue influence, exclusive agreements, and money advances.~~

~~(2) Manufacturers, distributors, or their licensed representatives may use websites and social media to post, repost, or share promotional information or images about events or provide other advertising services per the requirements outlined in RCW 66.28.310. Manufacturers, distributors, or their licensed representatives may also provide programs or flyers to be disseminated at the event, or may have media coverage of the event.~~

~~(3) Industry members may not provide money for advertising or promoting (sponsoring) an event directly to:~~

~~(a) The special occasion licensee;~~

~~(b) Employees of the special occasion licensee; or~~

(c) Promoters, event coordinators, or third parties hired by the special occasion licensee.

(4) If a third-party organization is holding an event in which a special occasion licensee participates, industry members may provide money for advertising or promoting (sponsoring) the event directly to the third-party organization only when:

(a) The third-party organization does not hold a special occasion license for the event;

(b) The third-party organization has not been hired by the participating special occasion licensee;

(c) Any advertising money may not be shared with the special occasion licensee; and

(d) The third-party organization has not expressly or implicitly promised, contracted, or otherwise agreed that the industry member's brand will be or will be more likely to be sold by the special occasion licensee, that the industry member's brand will be sold to the total or partial exclusion of any other brand, or that the industry member will be allowed access to the special occasion licensed area for advertising purposes without direct approval from the special occasion licensee and payment of reasonable booth fees to the special occasion licensee.

(5) Industry members may not give alcohol-related promotional items to event attendees in the special occasion licensed area.

(6) Industry members may also provide signage with the industry member's name or brand name of the product. Signage that may be visible to the general public from the public right of way must not:

(a) Exceed a total of four signs affixed to or hanging in a window, or on the outside of the licensed event area, referring to alcoholic beverages, brand names, or manufacturers; and

(b) Exceed sixteen hundred square inches.

(7) Inflatables are not allowed inside the event area unless the area is completely enclosed with no view to the inside from the public right of way.

(8) Industry members must comply with RCW 66.28.310 regarding the provision of and/or the receipt of branded promotional items directly or indirectly to a special occasion licensee.

(9) An industry member is not obligated to provide ~~((such))~~ branded promotional items as a condition for selling alcohol to the ~~((retailer))~~ special occasion licensee.

~~(((4) Any industry member or retailer or any other person))~~ (10) Anyone asserting the provision of branded promotional items as allowed in this section has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria of this section, may file a complaint with the ~~((liquor and cannabis))~~ board. Upon receipt of a complaint, the ~~((liquor and cannabis))~~ board may conduct ~~((such))~~ an investigation ~~((as it deems appropriate))~~.

(a) The ~~((liquor and cannabis))~~ board may issue an administrative violation notice to the industry member, the ~~((retailer))~~ special occasion licensee, or both.

(b) The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

WSR 20-20-045

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 19-07—Filed September 30, 2020, 3:28 p.m., effective October 31, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Ecology is amending chapter 173-303 WAC, Dangerous waste regulations, these regulations set standards for the safe management of dangerous wastes. Chapter 173-303 WAC implements chapter 70.105 RCW and Subtitle C of the federal Resource Conservation and Recovery Act (RCRA). Chapter 70.105 RCW gives the department of ecology's (ecology) hazardous waste and toxics reduction program authority to adopt regulations for dangerous waste management. Ecology amended specific sections of the dangerous waste regulations to incorporate new federal hazardous waste rules, including:

(1) Management Standards for Hazardous Waste Pharmaceuticals and Amendments to the P075 Listing for Nicotine. 84 F.R. 5816; February 22, 2019.

(2) Safe Management of Recalled Airbags. 83 F.R. 61552; November 30, 2018.

(3) User Fees for the Electronic Hazardous Waste Manifest System and Amendments to Manifest Regulations. 83 F.R. 420; January 3, 2018.

State-initiated amendments included:

(1) Corrections and clarifications to the generator improvements rule and other dangerous waste rules adopted January 28, 2019.

(2) Updating Biological Testing Methods for the Designation of Dangerous Waste - publication 80-12.

(3) Other clarifications and corrections as necessary.

Citation of Rules Affected by this Order: New WAC 173-303-555; and amending WAC 173-303-010, 173-303-017, 173-303-030, 173-303-040, 173-303-045, 173-303-070, 173-303-071, 173-303-073, 173-303-081, 173-303-082, 173-303-090, 173-303-100, 173-303-110, 173-303-140, 173-303-141, 173-303-160, 173-303-169, 173-303-170, 173-303-171, 173-303-172, 173-303-173, 173-303-174, 173-303-180, 173-303-200, 173-303-201, 173-303-220, 173-303-250, 173-303-370, 173-303-380, 173-303-505, 173-303-573, 173-303-600, 173-303-630, 173-303-640, 173-303-650, 173-303-680, 173-303-800, 173-303-810, 173-303-900, 173-303-910, and 173-303-9903.

Statutory Authority for Adoption: Chapter 70.105, 70.105D RCW.

Other Authority: Subtitle C of RCRA.

Adopted under notice filed as WSR 20-08-048 on March 25, 2020.

Changes Other than Editing from Proposed to Adopted Version: See the Concise Explanatory Statement Publication 20-04-038 for a full explanation.

1. WAC 173-303-017 (8)(a), 173-303-017 (8)(a)(viii), 173-303-017 (8)(b), 173-303-200 (15)(b)(i), 173-303-200 (15)(b)(iii), 173-303-555 (12)(a)(i) and (ii), Corrected references to the site identification form.

2. WAC 173-303-070(4), removed proposed rule requiring facilities to submit waste analysis plans to ecology upon request.

3. WAC 173-303-170 (5)(b), removed the term "injunctive relief" to correct an oversight in the proposed rule.

4. WAC 173-303-172 (5)(a), 173-303-172 (9)(a)(iv), 173-303-200 (3)(a), 173-303-200 (7)(a)(iv), 173-303-200 (13)(a)(iv)(A)(III), 173-303-201 (7)(e), 173-303-201 (14)(k)(i), replaced "owner or operator" with "generator" to clarify applicability.

5. WAC 173-303-201 (9)(b)(i) Contents of a contingency plan, changed proposed internal references for contingency plan contents which describe facility personnel emergency actions. The references were changed from "subsections (8) through (14)" to "subsections (8) and (14)."

6. WAC 173-303-220(3) Generator reporting, clarified that the list of additional reports as provided in the rule are only examples which clarify what types of reports ecology might request from a generator. Removed the phrase "including, but not limited to," in the parenthetical statement and replaced it with, "for example." Also removed the proposed term "nonengineering reports."

A final cost-benefit analysis is available by contacting Robert Rieck, Department of Ecology, Hazardous Waste and Toxics Reduction Program, Olympia, WA 98504, phone 360-407-6751, people with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington relay service at 711, email hwtrulemaking@ecy.wa.gov, website <https://fortress.wa.gov/ecy/publications/summarypages/2004042.html>.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 1, Amended 21, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 35, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2020.

Laura Watson
Director

AMENDATORY SECTION (Amending WSR 04-24-065, filed 11/30/04, effective 1/1/05)

WAC 173-303-010 Purpose. This regulation implements chapter 70.105 RCW, the Hazardous Waste Management Act (~~(of 1976)~~) as amended, and implements, in part, chapters (~~(70.105A)~~) 70.95E, 70.105D, and 15.54 RCW, and Subtitle C of Public Law 94-580, the Resource Conservation and Recovery Act of 1976, which the legislature has empowered the department to implement. The purposes of this regulation are to:

(1) Designate those solid wastes which are dangerous or extremely hazardous to the public health and environment;

Note: The terms public health and human health are used in this chapter interchangeably.

(2) Provide for surveillance and monitoring of dangerous and extremely hazardous wastes until they are detoxified, reclaimed, neutralized, or disposed of safely;

(3) Provide the form and rules necessary to establish a system for manifesting, tracking, reporting, monitoring, recordkeeping, sampling, and labeling dangerous and extremely hazardous wastes;

(4) Establish the siting, design, operation, closure, post-closure, financial, and monitoring requirements for dangerous and extremely hazardous waste transfer, treatment, storage, and disposal facilities;

(5) Establish design, operation, and monitoring requirements for managing the state's extremely hazardous waste disposal facility;

(6) Establish and administer a program for permitting dangerous and extremely hazardous waste management facilities; and

(7) Encourage recycling, reuse, reclamation, and recovery to the maximum extent possible.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-017 Recycling processes involving solid waste. (1) The purpose of this section is to identify those materials that are and are not solid wastes when recycled. Certain materials, as described in subsection (2) of this section, would not typically be considered to involve waste management and are exempt from the requirements of this chapter. All recycling processes not exempted by subsection (2) of this section are subject to the recycling requirements of WAC 173-303-120.

(2) General categories of materials that are not solid waste when recycled.

(a) Except as provided in subsection (3) of this section, materials are not solid wastes when they can be shown to be recycled by being:

(i) Used or reused as ingredients in an industrial process to make a product provided the materials are not being reclaimed; or

(ii) Used or reused as effective substitutes for commercial products; or

(iii) Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land.

(b) Except as provided in subsection (3) of this section, the department has determined that the following materials when used as described are not solid wastes:

(i) Pulping liquors (e.g., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process;

(ii) Spent pickle liquor which is reused in wastewater treatment at a facility holding a national pollutant discharge elimination system (NPDES) permit, or which is being accumulated, stored, or treated before such reuse;

(iii) Spent sulfuric acid used to produce virgin sulfuric acid provided it is not accumulated speculatively as defined in WAC 173-303-016 (5)(d)(ii).

(3) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (as described in subsection (2)(a) of this section):

(a) Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

(b) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

(c) Materials accumulated speculatively as defined in WAC 173-303-016 (5)(d)(ii); or

(d) Materials listed in WAC 173-303-016(6); or

(e) Any materials that the department determines are being accumulated, used, reused or handled in a manner that poses a threat to public health or the environment.

(4) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

(5) Variances from classification as a solid waste.

(a) In accordance with the standards and criteria in (b) of this subsection and the procedures in subsection (7) of this section, the department may determine on a case-by-case basis that the following recycled materials are not solid wastes:

(i) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in WAC 173-303-016 (5)(d)(ii));

(ii) Materials that are reclaimed and then reused within the original production process in which they were generated;

(iii) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered; and

~~(iv) ((Materials that are reclaimed in a continuous process;~~

~~(v) Materials that are indistinguishable in all relevant aspects from a product or intermediate; and~~

~~(vi)) State-only dangerous materials (not regulated as hazardous wastes (defined in WAC 173-303-040) by EPA) which serve as an effective substitute for a commercial product or raw material.~~

(b) Standards and criteria for variances from classification as a solid waste.

(i) The department may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for

the following year, but can be renewed, on an annual basis, by filing a new application. The department's decision will be based on the following criteria:

(A) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

(B) The reason that the applicant has accumulated the material for one or more years without recycling seventy-five percent of the volume accumulated at the beginning of the year;

(C) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

(D) The extent to which the material is handled to minimize loss;

(E) Other relevant factors.

(ii) The department may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

(A) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

(B) The extent to which the material is handled before reclamation to minimize loss;

(C) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

(D) The location of the reclamation operation in relation to the production process;

(E) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

(F) Whether the person who generates the material also reclaims it;

(G) Other relevant factors.

(iii) The department may grant requests for a variance from classifying as a solid waste those hazardous secondary materials that have been partially reclaimed, but must be reclaimed further before recovery is completed, if the partial reclamation has produced a commodity-like material. A determination that a partially reclaimed hazardous secondary material for which the variance is sought is commodity-like will be based on whether the material is legitimately recycled as specified in WAC 173-303-019 and on whether all of the following decision criteria are satisfied:

(A) Whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the dangerous waste;

(B) Whether the partially reclaimed material has sufficient economic value that it will be purchased for further reclamation;

(C) Whether the partially reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;

(D) Whether there is a market for the partially reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading);

(E) Whether the partially reclaimed material is handled to minimize loss; and

(F) Other relevant factors.

(iv) The department may grant requests for a variance from classifying as a solid waste those materials that serve as an effective substitute for a commercial product or raw material, when such material is not regulated as hazardous waste (defined in WAC 173-303-040) by EPA, if the materials are recycled in a manner such that they more closely resemble products or raw materials rather than wastes. This determination will be based on the following factors:

(A) The effectiveness of the material for the claimed use;

(B) The degree to which the material is like an analogous raw material or product;

(C) The extent to which the material is handled to minimize loss or escape to the environment;

(D) The extent to which an end market for the reclaimed material is guaranteed;

(E) The time period between generating the material and its recycling;

(F) Other factors as appropriate.

(6) Variance to be classified as a boiler.

In accordance with the standards and criteria in WAC 173-303-040 (definition of "boiler"), and the procedures in subsection (7) of this section, the department may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in WAC 173-303-040, after considering the following criteria:

(a) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(b) The extent to which the combustion chamber and energy recovery equipment are of integral design; and

(c) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(d) The extent to which exported energy is utilized; and

(e) The extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

(f) Other factors, as appropriate.

(7) Procedures for variances from classification as a solid waste or to be classified as a boiler.

The department will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed controlled flame combustion devices as boilers:

(a) The applicant must apply to the department for the variance. The application must address the relevant criteria

contained in subsection (5)(b) or (6) of this section, as applicable.

(b) The department will evaluate the application and issue a draft public notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the recycler is located. The department will accept comment on the tentative decision for thirty days, and may also hold a public hearing upon request or at its discretion. The department will issue a final decision after receipt of comments and after the hearing (if any).

(c) In the event of a change in circumstances that affect how a material meets the relevant criteria contained in subsection (5) or (6) of this section, as applicable, upon which a variance has been based, the applicant must send a description of the change in circumstances to the department. The department may issue a determination that the material continues to meet the relevant criteria of the variance or may require the facility to reapply for the variance.

(d) Variances shall be effective for a fixed term not to exceed ten years. No later than six months prior to the end of this term, facilities must reapply for a variance. If a facility reapplies for a variance within six months, the facility may continue to operate under an expired variance until receiving a decision on their reapplication from the department.

(e) Facilities receiving a variance must provide notification as required by subsection (8) of this section.

(8) Notification requirements for materials managed under variances from classification as a solid waste.

(a) Facilities managing hazardous secondary materials under WAC 173-303-017(5) must send a notification prior to operating under the regulatory provision and by March 1st of each even-numbered year thereafter to the department using ecology's Dangerous Waste Site Identification Form that includes the following information:

(i) The name, address, and EPA/state identification number (if applicable) of the facility;

(ii) The name and telephone number of a contact person;

(iii) The NAICS code of the facility;

(iv) The regulation under which the hazardous secondary materials will be managed;

(v) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;

(vi) A list of hazardous secondary materials that will be managed according to the regulation (reported as the dangerous waste numbers that would apply if the hazardous secondary materials were managed as dangerous wastes);

(vii) The quantity of each hazardous secondary material to be managed annually; and

(viii) The certification (included in ecology's Dangerous Waste Site Identification Form) signed and dated by an authorized representative of the facility.

(b) If a facility managing hazardous secondary materials under this section has submitted a notification, but then subsequently stops managing those materials in accordance with the regulation(s) listed above, the facility must notify the department within thirty days using ecology's Dangerous Waste Site Identification Form. For purposes of this section, a facility has stopped managing hazardous secondary materi-

als under this section if the facility no longer generates, manages, or reclaims materials under the regulation(s) above and does not expect to manage any amount of hazardous secondary materials under this section for at least one year.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-030 Abbreviations. The following abbreviations are used in this regulation.

APTI - Association for Preservation Technology International

ASTM - American Society for Testing Materials

APHA - American Public Health Association

CAMU - corrective action management unit

CDC - Center for Disease Control

C.F.R. - Code of Federal Regulations

DEA - Drug Enforcement Administration

DOT - Department of Transportation

°C - degrees Celsius

DRE - destruction and removal efficiency

DW - dangerous waste

DWS - drinking water standards of the Safe Drinking Water Act

EHW - extremely hazardous waste

EP - extraction procedure

EPA - Environmental Protection Agency

FDA - Food and Drug Administration

°F - degrees Fahrenheit

g - gram

IARC - International Agency for Research on Cancer

IFC - International Fire Code

kg - kilogram (one thousand grams)

L - liter

lb - pound

LC₅₀ - median lethal concentration

LD₅₀ - median lethal dose

MACT - maximum achievable control technology

M - molar (gram molecular weights per liter of solution)

mg - milligram (one thousandth of a gram)

MTCA - Model Toxics Control Act

NFPA - National Fire Protection Association

NIOSH - National Institute for Occupational Safety and Health

pH - negative logarithm of the hydrogen ion concentration

PODC - principal organic dangerous constituent

POTW - publicly owned treatment works

ppm - parts per million (weight/weight)

QEL - Quantity Exclusion Limit

RCRA - Resource Conservation and Recovery Act

RCW - Revised Code of Washington

TEQ - toxicity equivalence

TMC - total mass concentrate

TOM - total organic mass

TSD facility (or TSDF) - treatment, storage, or disposal facility

TU - temporary unit

UBC - Uniform Building Code

UFC - Uniform Fire Code

USCG - United States Coast Guard

USGS - United States Geological Survey

WAC - Washington Administrative Code

% - percent

- number

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-040 Definitions. When used in this chapter, the following terms have the meanings given below.

Note: The list of defined terms in this section does not contain all defined terms used in chapter 173-303 WAC.

"Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Accumulation" refers to the definition of "storage."

"Active life" of a facility means the period from the initial receipt of dangerous waste at the facility until the department receives certification of final closure.

"Active portion" means that portion of a facility which is not a closed portion, and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:

The effective date of the waste's designation by 40 C.F.R. Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 C.F.R. Part 261. (See also "closed portion" and "inactive portion.")

"Active range" means a military range that is currently in service and is being regularly used for range activities.

"Acute hazardous waste" means dangerous waste sources (listed in WAC 173-303-9904) F020, F021, F022, F023, F026, or F027, and discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P", including those wastes mixed with source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954. The abbreviation "AHW" will be used in this chapter to refer to those dangerous and mixed wastes which are acute hazardous wastes. Note - The terms acute and acutely are used interchangeably.

"Airbag waste" means any dangerous waste airbag modules or dangerous waste airbag inflators.

"Airbag waste collection facility" means any facility that receives airbag waste from airbag handlers subject to regulation under WAC 173-303-071 (3)(tt), and accumulates the waste for more than ten days.

"Airbag waste handler" means any person, by site, who generates airbag waste that is subject to the regulations under this chapter.

"Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of dangerous waste from its point of generation to a

storage or treatment tank(s), between dangerous waste storage and treatment tanks to a point of disposal on site, or to a point of shipment for disposal off site.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a generator site, facility, or an operational unit (e.g., plant manager, superintendent or an employee of the company of equivalent responsibility).

"Batch" means any waste which is generated less frequently than once a month.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Berm" means the shoulder of a dike.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit will be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards in WAC 173-303-017(6).

"By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a coproduct that is produced for

the general public's use and is ordinarily used in the form it is produced by the process.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Carcinogenic" means a material known to contain a substance which has sufficient or limited evidence as a human or animal carcinogen as listed in both IARC and either IRIS or HEAST.

"Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

"Central accumulation area" means any on-site dangerous waste accumulation area subject to either WAC 173-303-200 (large quantity generators) or WAC 173-303-172 (medium quantity generators). A central accumulation area at an eligible academic entity that chooses to operate under WAC 173-303-235 must also comply with WAC 173-303-235(12) when accumulating unwanted material and/or dangerous waste.

"Chemical agents and chemical munitions" are defined as in 50 U.S.C. section 1521 (j)(1).

"Cleanup-only facility" means a site, including any contiguous property owned or under the control of the owner or operator of the site, where the owner or operator is or will be treating, storing, or disposing of remediation waste, including dangerous remediation waste, and is not, has not and will not be treating, storing or disposing of dangerous waste that is not remediation waste. A cleanup-only facility is not a "facility" for purposes of corrective action under WAC 173-303-646.

"Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

"Closure" means:

- The requirements placed upon all recycling, used oil, and TSD facilities, plus some generators, and some transporters to ensure that all such facilities are closed in an acceptable manner (see also "post-closure"); and

- Once taken out of service, the proper cleaning up and/or decontaminating of a dangerous waste management unit or a recycling unit and any areas affected by releases from the unit.

"College/university" see WAC 173-303-235.

"Commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.

"Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and includes, but is not limited to, limes, gypsum, and manipulated animal manures and vegetable compost. The commer-

cial fertilizer must be registered with the state or local agency regulating the fertilizer in the locale in which the fertilizer is being sold or applied.

"Compliance procedure" means any proceedings instituted pursuant to the Hazardous Waste Management Act, chapter 70.105 RCW, and Hazardous waste fees, chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Management Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

"Component" means either the tank or ancillary equipment of a tank system.

"Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

"Contained" means held in a unit that meets the following criteria:

- The unit is in good condition with no leaks or other continuing or intermittent unpermitted releases of hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

- The unit is properly labeled or otherwise has a system (such as a log book) to immediately identify the hazardous secondary materials in the unit; and

- The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

- Hazardous secondary materials in units that meet the applicable requirements of WAC 173-303-280 through 173-303-395 or 173-303-400 are presumptively contained.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of WAC 173-303-695.

"Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten human health or environment.

"Contract" means the written agreement signed by the department and the state operator.

"Control" means, for the purposes of WAC 173-303-171(1)(e) (~~and~~), 173-303-200(15) and 173-303-555, the power to direct the policies of the generator, whether by the ownership of stock or voting rights. Contractors, consultants, and transporters who operate generator facilities on behalf of a different person, as defined in this section, shall not be deemed to "control" such generators.

"Corrosion expert" means a person who, by reason of their knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"CRT collector" means a person who receives CRTs for recycling, repair, resale, or donation.

"CRT exporter" means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

"CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

"CRT processing" means conducting all of the following activities:

- Receiving broken or intact CRTs; and
- Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and
- Sorting or otherwise managing glass removed from CRT monitors.

"Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents that have caused a waste to be a dangerous waste under this chapter.

"Dangerous waste management unit" is a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area. Examples of dangerous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-100 as dangerous, or extremely hazardous or mixed waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter. The abbreviation "DW" will refer only to that part of the regulated universe which is not extremely hazardous waste. (See also "extremely hazardous waste," "hazardous waste," and "mixed waste" definitions.)

"Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufac-

tured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: Any material for which a specific treatment standard is provided in 40 C.F.R. Part 268 Subpart D (incorporated by reference in WAC 173-303-140 (2)(a)); process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least seventy-five percent of their original volume. A mixture of debris that has not been treated to the standards provided by 40 C.F.R. 268.45 and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

"Department" means the department of ecology.

"Dermal Rabbit LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half or more of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

"Designated facility" means:

- A dangerous waste treatment, storage, disposal, or recycling facility that:
 - Has received a permit (or interim status) in accordance with the requirements of this chapter,
 - Has received a permit (or interim status) from another state authorized in accordance with 40 C.F.R. Part 271,
 - Has received a permit (or interim status) from EPA in accordance with 40 C.F.R. Part 270,
 - Has a permit by rule under WAC 173-303-802(5), or is regulated under WAC 173-303-120 (4)(c) or 173-303-525 when the dangerous waste is to be recycled, and
 - That has been designated on the manifest pursuant to WAC 173-303-180(1).
- "Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with WAC 173-303-370 (5)(f).
- If a waste is destined to a facility in an authorized state that has not yet obtained authorization to regulate that particular waste as dangerous, then the designated facility must be a facility allowed by the receiving state to accept such waste.
- The following are designated facilities only for receipt of state-only waste; they cannot receive federal hazardous waste from off-site: Facilities operating under WAC 173-303-500 (2)(c).

"Designation" is the process of determining whether a waste is regulated under the dangerous waste lists, WAC 173-303-080 through 173-303-082; or characteristics, WAC 173-303-090; or criteria, WAC 173-303-100. The procedures for designating wastes are in WAC 173-303-070. A waste that has been designated as a dangerous waste may be either DW or EHW.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in WAC 173-303-573 (9)(a), (b) and (c) and 173-303-573 (20)(a), (b) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

"Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

"Director" means the director of the department of ecology or their designee.

"Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment.

"Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

"Domestic sewage" means untreated sanitary wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment.

"Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

"Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of nonearthen materials and designed to convey preservative kick-back or drip-page from treated wood, precipitation, and surface water runoff to an associated collection system at wood preserving plants.

"Electronic manifest (or e-Manifest)" means the electronic format of the hazardous waste manifest that is obtained from EPA's national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

"Electronic Manifest System" (or "e-Manifest System") means EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

"Electronic signature" is defined in RCW ((19.34.020)) 19.360.030.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle, or vessel.

"Eligible academic entity" see WAC 173-303-235.

"Enforceable document" means an order, consent decree, plan or other document that meets the requirements of 40 C.F.R. 271.16(e) and is issued by the director to apply alternative requirements for closure, post-closure, groundwater monitoring, corrective action or financial assurance under WAC 173-303-610 (1)(e), 173-303-645 (1)(f), or 173-303-

620 (1)(d) or, as incorporated by reference at WAC 173-303-400, 40 C.F.R. 265.90(f), 265.110(d), or 265.140(d). Enforceable documents include, but are not limited to, closure plans and post-closure plans, permits issued under chapter 70.105 RCW, orders issued under chapter 70.105 RCW and orders and consent decrees issued under chapter 70.105D RCW.

"Environment" means any air, land, water, or groundwater.

"EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

"Episodic event" see WAC 173-303-173.

"Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of dangerous waste and that is in operation, or for which installation has commenced on or prior to February 3, 1989. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 C.F.R. Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 C.F.R. Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state, and local statutes, regulations, and ordinances and either:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligation, which cannot be canceled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other federal, state, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

"Export" means the transportation of hazardous waste from a location under the jurisdiction of the United States to another country, or a location not under the jurisdiction of any country, for the purpose of recovery, treatment, or disposal operations therein.

"Exporter," also known as primary exporter on the RCRA hazardous waste manifest, means the person domiciled in the United States who is required to originate the movement document in accordance with 40 C.F.R. Part 262.83(d) or the manifest for a shipment of hazardous waste in accordance with 40 C.F.R. Part 262, Subpart B, or equivalent state provision specifies a foreign receiving facility as the facility the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous waste to recovery, treatment, or disposal in the country of import.

"Extremely hazardous waste" means those dangerous and mixed wastes designated in WAC 173-303-100 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous and mixed wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

"Facility" means:

- All contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, disposing of dangerous waste, or managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them). Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility," or "waste management facility" are used interchangeably.

- For purposes of implementing corrective action under WAC 173-303-64620 or 173-303-64630, "facility" also

means all contiguous property under the control of an owner or operator seeking a permit under chapter 70.105 RCW or chapter 173-303 WAC and includes the definition of facility at RCW 70.105D.020(8).

"Facility mailing list" means the mailing list for a facility maintained by the department in accordance with WAC 173-303-840 (3)(e)(I)(D).

"Final closure" means the closure of all dangerous waste management units at the facility in accordance with all applicable closure requirements so that dangerous waste management activities under WAC 173-303-400 and 173-303-600 through 173-303-670 are no longer conducted at the facility. Areas only subject to generator standards WAC 173-303-170 through 173-303-230 need not be included in final closure.

"Fish LC50" means the concentration that will kill fifty percent or more of the exposed fish in a specified time period. For book designation, LC50 data must be derived from an exposure period greater than or equal to twenty-four hours. A hierarchy of species LC50 data should be used that includes (in decreasing order of preference) salmonids, fathead minnows (*Pimephales promelas*), and other fish species. For the ninety-six-hour static acute fish toxicity test, described in WAC 173-303-110 (3)(b)(i), coho salmon (*Oncorhynchus kisutch*), rainbow trout (*Oncorhynchus mykiss*), or brook trout (*Salvelinus fontinalis*) must be used.

"Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

"Formal written affiliation agreement" see WAC 173-303-235.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

"Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

"Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

"Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

"Groundwater" means water which fills voids below the land surface and in the earth's crust.

"Halogenated organic compounds" (HOC) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, or iodine which is/are bonded directly to a carbon atom. This definition does not apply to the federal land disposal restrictions of 40 C.F.R. Part 268 which are incorporated by reference at WAC 173-303-140 (2)(a). Note: Additional information on HOCs may be found in *Chemical Test Methods for Designating Dangerous Waste*, Ecology Publication #97-407.

"Hazardous debris" means debris that contains a hazardous waste listed in WAC 173-303-9903 or 173-303-9904, or that exhibits a characteristic of hazardous waste identified in WAC 173-303-090.

"Hazardous secondary material" means a secondary material (e.g., spent material, by-product, sludge, or commercial chemical product) that, when discarded, would be identified as a dangerous waste under this chapter.

"Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this definition, "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

"Hazardous wastes" means those solid wastes designated by 40 C.F.R. Part 261, and regulated as hazardous and/or mixed waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

"Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

"Ignitable waste" means a dangerous waste that exhibits the characteristic of ignitability described in WAC 173-303-090(5).

"Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

The effective date of the waste's designation, for wastes designated under 40 C.F.R. Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 C.F.R. Part 261.

"Inactive range" means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

"Incinerator" means any enclosed device that:

Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a dangerous waste that is unsuitable for:

- Placement in a particular device or facility because it may cause corrosion or decay of containment materials (for example, container inner liners or tank walls); or

- Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

(See appendix V of 40 C.F.R. Parts 264 and 265 for examples.)

"Independent qualified registered professional engineer" means a person who is licensed by the state of Washington, or a state which has reciprocity with the state of Washington as

defined in RCW 18.43.100, and who is not an employee of the owner or operator of the facility for which construction or modification certification is required. A qualified professional engineer is an engineer with expertise in the specific area for which a certification is given.

"Industrial-furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy: Cement kilns; lime kilns; aggregate kilns; phosphate kilns; blast furnaces; smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces); titanium dioxide chloride process oxidation reactors; coke ovens; methane reforming furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and halogen acid furnaces (HAFs) for the production of acid from halogenated dangerous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for dangerous waste burned as fuel, dangerous waste fed to the furnace has a minimum halogen content of 20% as-generated. The department may decide to add devices to this list on the basis of one or more of the following factors:

The device is designed and used primarily to accomplish recovery of material products;

The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

The device burns or reduces raw materials to make a material product;

The device is in common industrial use to produce a material product; and

Other factors, as appropriate.

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" in this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"Inhalation Rat LC₅₀" means a concentration in milligrams of substance per liter of air (mg/L) which, when administered to the respiratory tract for one hour or more, kills within fourteen days half or more of a group of ten rats each weighing between 200 and 300 grams.

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of their knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805.

"Knowledge" means sufficient information about a waste to reliably substitute for direct testing of the waste. To be sufficient and reliable, the "knowledge" used must provide information necessary to manage the waste in accordance with the requirements of this chapter.

Note: "Knowledge" may be used by itself or in combination with testing to designate a waste pursuant to WAC 173-303-070 (3) (e), or to obtain a detailed chemical, physical, and/or biological analysis of a waste as required in WAC 173-303-300(2).

"Laboratory" see WAC 173-303-235 only.

"Laboratory clean-out" see WAC 173-303-235.

"Laboratory worker" see WAC 173-303-235.

"Lamp," also referred to as "universal waste lamp" means any type of high or low pressure bulb or tube portion of an electric lighting device that generates light through the discharge of electricity either directly or indirectly as radiant energy. Universal waste lamps include, but are not limited to, fluorescent, mercury vapor, metal halide, high-pressure sodium and neon. As a reference, it may be assumed that four, four-foot, one-inch diameter unbroken fluorescent tubes are equal to 2.2 pounds in weight.

"Land disposal" means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

"Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

"Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

"Large quantity generator" means a generator who generates any of the following amounts in a calendar month:

(a) Greater than or equal to 2,200 lb (1,000 kg) of dangerous waste that is not acute hazardous waste (AHW) or WT01 extremely hazardous waste (EHW); or

(b) Greater than 2.2 lb (1 kg) of acute hazardous waste and/or WT01 EHW; or

(c) Greater than 220 lb (100 kg) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste and/or WT01 EHW.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this section) who accumulates 11,000 pounds or more total of universal waste (batteries, mercury-containing equipment, and lamps calculated

collectively) or who accumulates more than 2,200 pounds of lamps at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 11,000 pounds or more total of universal waste and/or 2,200 pounds of lamps is accumulated.

"Leachable inorganic waste" means solid dangerous waste (that is, passes the Paint Filter Test Method 9095B as described in *Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods*" EPA Publication SW-846 as incorporated by reference in WAC 173-303-110 (3)(a)) that is not an organic/carbonaceous waste and exhibits the toxicity characteristic (dangerous waste numbers D004 to D011, only) under WAC 173-303-090(8).

"Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of dangerous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of dangerous waste into the secondary containment structure.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

"Major facility" means a facility or activity classified by the department as major.

"Manifest" means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest originated and signed by the generator or offeror in accordance with the requirements of WAC 173-303-180 (Manifest), and the applicable requirements of WAC 173-303-170 through 173-303-692.

"Manifest tracking number" means the alphanumeric identification number (a unique three letter suffix preceded by nine numerical digits), that is preprinted in Item 4 of the Manifest by a registered source.

"Manufacturing process unit" means a unit which is an integral and inseparable portion of a manufacturing operation, processing a raw material into a manufacturing intermediate or finished product, reclaiming spent materials or reconditioning components.

"Marine terminal operator" means a person engaged in the business of furnishing wharfage, dock, pier, warehouse, covered and/or open storage spaces, cranes, forklifts, bulk loading and/or unloading structures and landings in connection with a highway or rail carrier and a water carrier. A marine terminal operator includes, but is not limited to, terminals owned by states and their political subdivisions; rail-

roads who perform port terminal services not covered by their line haul rates; common carriers who perform port terminal services; and warehousemen and stevedores who operate port terminal facilities.

"Medium quantity generator" means a generator who generates the following amounts in a calendar month:

(a) Greater than 220 lb (100 kg) but less than 2,200 lb (1,000 kg) of dangerous waste that is not AHW and/or WT01 extremely hazardous waste (EHW);

(b) Less than or equal to 2.2 lb (1 kg) of AHW and/or WT01 EHW; and

(c) Less than or equal to 220 lb (100 kg) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste and/or WT01 EHW.

"Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function. Examples of mercury-containing equipment include thermostats, thermometers, manometers, and electrical switches.

"Micronutrient fertilizer" means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorous, potash, calcium, magnesium, or sulfur. Micronutrients are boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

"Military" means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

"Military munitions" means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: Confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include nonnuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

"Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation

pads, impact areas, and buffer zones with restricted access and exclusionary areas.

"Miscellaneous unit" means a dangerous waste management unit where dangerous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 C.F.R. Part 146, containment building, corrective action management unit, temporary unit, staging pile, or unit eligible for a research, development, and demonstration permit under WAC 173-303-809.

"Mixed waste" means a dangerous, extremely hazardous, or acutely hazardous waste that contains both a non-radioactive hazardous component and, as defined by 10 C.F.R. 20.1003, source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of dangerous waste and for which installation has commenced after February 3, 1989; except, however, for purposes of WAC 173-303-640 (4)(g)(ii) and 40 C.F.R. 265.193 (g)(2) as adopted by reference in WAC 173-303-400(3), a new tank system is one for which construction commences after February 3, 1989. (See also "existing tank system.")

"New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40 C.F.R. Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 C.F.R. Part 261.

"NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

"No free liquids" as used in WAC 173-303-071 (3)(rr) and (ss), means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B (Paint Filter Liquids Test), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication SW-846), which is incorporated by reference, and that there is no free liquid in the container holding the wipes.

"Nonprofit research institute" see WAC 173-303-235.

"Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

"Off-specification used oil fuel" means used oil fuel that exceeds any specification level described in Table 1 in WAC 173-303-515.

"Onground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property which may be divided by public or private right of way, provided that the entrance and exit between the proper-

ties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Noncontiguous properties owned by the same person but connected by a right of way which they control and to which the public does not have access, are also considered on-site property.

"Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

"Oral Rat LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within fourteen days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

"Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

"Partial closure" means the closure of a dangerous waste management unit in accordance with the applicable closure requirements of WAC 173-303-400 and 173-303-600 through 173-303-695 at a facility that contains other active dangerous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other dangerous waste management unit, while other units of the same facility continue to operate.

"Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

The department, pursuant to this chapter;

United States EPA, pursuant to 40 C.F.R. Part 270; or

Another state authorized by EPA, pursuant to 40 C.F.R. Part 271.

"Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

"Persistence" means the quality of a material that retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions. Persistent compounds are either halogenated organic compounds (HOC) or polycyclic aromatic hydrocarbons (PAH) as defined in this section.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

"Personnel or facility personnel" means all persons who work at, or oversee the operations of, a dangerous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of WAC 173-303-400 or 173-303-280 through 173-303-395 and 173-303-600 through 173-303-695.

"Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus

(except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

"Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage.

"Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point of generation" means the point, including both the date and place, a material is first identified as a solid waste under this chapter 173-303 WAC.

"Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

"Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more fused benzene rings. For purposes of this chapter, the PAHs of concern for designation are: Acenaphthene, acenaphthylene, fluorene, anthracene, fluoranthene, phenanthrene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, pyrene, chrysene, benzo(a)pyrene, dibenz(a,h)anthracene, indeno(1,2,3-c,d)pyrene, benzo(g,h,i)perylene, dibenzo [(a,e), (a,h), (a,i), and (a,l)] pyrenes, and dibenzo(a,j) acridine.

"Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

"Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (that is, sorted), and fines, drosses and related materials that have been agglomerated. Note: Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (WAC 173-303-071 (3)(gg)).

"Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

"Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term

includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport. Sufficient training and experience may be demonstrated by state registration, professional certifications, or completion of accredited university courses.

"Reactive acutely hazardous unwanted material" see WAC 173-303-235.

"Reactive waste" means a dangerous waste that exhibits the characteristic of reactivity described in WAC 173-303-090(7).

"Reclaim" means to process a material in order to recover useable products, or to regenerate the material. Reclamation is the process of reclaiming.

"Recognized trader" means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of waste destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the waste.

"Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

"Recycle" means to use, reuse, or reclaim a material.

"Recycling unit" is a contiguous area of land, structures and equipment where materials designated as dangerous waste or used oil are placed or processed in order to recover useable products or regenerate the original materials. For the purposes of this definition, "placement" does not mean "storage" when conducted within the provisions of WAC 173-303-120(4). A container, tank, or processing equipment alone does not constitute a unit; the unit includes containers, tanks or other processing equipment, their ancillary equipment and secondary containment system, and the land upon which they are placed.

"Registration number" means the number assigned by the department of ecology to a transporter who owns or leases and operates a ten-day transfer facility within Washington state.

"Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

July 26, 1982, for wastes regulated by 40 C.F.R. Part 261;

October 31, 1984 for wastes designated only by this chapter and not regulated by 40 C.F.R. Part 261; or

The date six months after a waste is newly identified by amendments to 40 C.F.R. Part 261 or this chapter which cause the waste to be regulated.

"Release" means any intentional or unintentional spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of dangerous wastes, or dangerous constituents as defined at WAC 173-303-64610(4), into the environment and

includes the abandonment or discarding of barrels, containers, and other receptacles containing dangerous wastes or dangerous constituents and includes the definition of release at RCW 70.105D.020(32).

"Remediation waste" means all solid and dangerous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, that are managed for implementing cleanup.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and that is subsequently reused to treat, store, or dispose of dangerous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or state approved corrective action.

"Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

"Reuse or use" means to employ a material either:

As an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

In a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

"Runoff" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

"Satellite accumulation area" means a location at or near any point of generation where dangerous waste is initially accumulated in containers (during routine operations) prior to consolidation at a designated central accumulation area or storage area. The area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes into the satellite containers.

"Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

"Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the

sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

"Small quantity generator" means a generator who generates less than or equal to the following amounts in a calendar month:

- 220 lb (100 kg) of dangerous waste that is not acute hazardous waste and/or WT01 EHW;
- 2.2 lb (1 kg) of acute hazardous waste and/or WT01 EHW; and
- 220 lb (100 kg) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste and/or WT01 EHW.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this section) who does not accumulate 11,000 pounds or more total of universal waste (batteries, mercury-containing equipment, and lamps, calculated collectively) and/or who does not accumulate more than 2,200 pounds of lamps at any time.

"Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of WAC 173-303-090 (6)(a)(iii).

"Solid waste management unit" or "SWMU" means any discernible location at a facility, as defined for the purposes of corrective action, where solid wastes have been placed at any time, irrespective of whether the location was intended for the management of solid or dangerous waste. Such locations include any area at a facility at which solid wastes, including spills, have been routinely and systematically released. Such units include regulated units as defined by chapter 173-303 WAC.

"Solvent-contaminated wipe" means:

(a) A wipe that, after use or after cleaning up a spill, either:

(i) Contains one or more of the F001 through F005 solvents listed in WAC 173-303-082 or the corresponding P- or U- listed solvents found in WAC 173-303-081;

(ii) Exhibits a dangerous waste characteristic found in WAC 173-303-090 when that characteristic results from a solvent listed in WAC 173-303-080;

(iii) Exhibits only the dangerous waste characteristic of ignitability found in WAC 173-303-090(5) due to the presence of one or more solvents that are not listed in WAC 173-303-080; or

(iv) Designates only for dangerous waste criteria found in WAC 173-303-100 and is not designated by 40 C.F.R. Part 261.

(b) Solvent-contaminated wipes that contain listed dangerous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at WAC 173-303-071 (3)(rr) and (ss).

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. *Sorb* means to either adsorb or absorb, or both.

"Special incinerator ash" means ash residues resulting from the operation of incineration or energy recovery facilities managing municipal solid waste from residential, commercial and industrial establishments, if the ash residues are

designated as dangerous waste only by this chapter and not designated as hazardous waste by 40 C.F.R. Part 261.

"Special waste" means any state-only dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is: Corrosive waste (WAC 173-303-090 (6)(b)(ii)), toxic waste that has Category D toxicity (WAC 173-303-100(5)), PCB waste (WAC 173-303-9904 under State Sources), or persistent waste that is not EHW (WAC 173-303-100(6)). Any solid waste that is regulated by the United States EPA as hazardous waste cannot be a special waste.

"Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

"Stabilization" and "solidification" means a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

"Staging pile" means an accumulation of solid, nonflowing, remediation waste that is not a containment building or a corrective action management unit and that is used for temporary storage of remediation waste for implementing corrective action under WAC 173-303-646 or other clean up activities. Staging piles must be designated by the department according to the requirements of WAC 173-303-64690.

"State-only dangerous waste" means a waste designated only by this chapter, chapter 173-303 WAC, and is not regulated as a hazardous waste under 40 C.F.R. Part 261.

"State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

"Storage" means the holding of dangerous waste for a temporary period. "Accumulation" of dangerous waste, by the generator on the site of generation, is storage of dangerous waste and can be managed under the applicable conditions for exemption of WAC 173-303-170 (2)(b).

"Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect dangerous waste for transport to dangerous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid wastes or wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

"Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

"Tank system" means a dangerous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Teaching hospital" see WAC 173-303-235.

"Temporary unit" means a tank or container that is not an accumulation unit under WAC 173-303-200 and that is used for temporary treatment or storage of remediation waste for implementing corrective action under WAC 173-303-646 or other clean up activities.

"TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

"Thermal treatment" means the treatment of dangerous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the dangerous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of WAC 173-303-573 (9)(b)(ii) or (20)(b)(ii).

"TLM₉₆" means the same as "Aquatic LC₅₀."

"Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

"Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

"Trained professional" see WAC 173-303-235.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, buildings, piers, and other similar areas where shipments of dangerous waste or hazardous secondary materials are held, consolidated, or transferred within a period of ten days or less during the normal course of transportation.

"Transport vehicle" means a motor vehicle, water vessel, or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, steamship, etc.) is a separate transport vehicle.

"Transportation" means the movement of dangerous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of dangerous waste.

"Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

"Treatability study" means a study in which a dangerous waste is subjected to a treatment process to determine: Whether the waste is amenable to the treatment process; what pretreatment (if any) is required; the optimal process conditions needed to achieve the desired treatment; the efficiency of a treatment process for a specific waste or wastes; or the characteristics and volumes of residuals from a particular

treatment process. Also included in this definition for the purpose of the exemptions contained in WAC 173-303-071 (3)(r) and (s), are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of dangerous waste.

"Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume, with the exception of compacting, repackaging, and sorting as allowed under WAC 173-303-400(2) and 173-303-600(3).

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

"Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160 (2)(b), containers.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

"Underground source of drinking water" (USDW) means an aquifer or its portion:

- Which supplies any public water system or contains a sufficient quantity of groundwater to supply a public water system; and currently supplies drinking water for human consumption or contains fewer than 10,000 mg/l total dissolved solids; and
- Which is not an exempted aquifer.

"USDW" means underground source of drinking water.

"Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.

"Unexploded ordnance (UXO)" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating dangerous waste without posing a threat of release of dangerous waste to the environment.

"Universal waste" means any of the following dangerous wastes that are subject to the universal waste requirements of WAC 173-303-573:

Batteries as described in WAC 173-303-573(2);

Mercury-containing equipment as described in WAC 173-303-573(3); and

Lamps as described in WAC 173-303-573(5).

"Universal waste handler":

Means:

A generator (as defined in this section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and

sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Does not mean:

A person who treats (except under the provisions of WAC 173-303-573 (9)(a), (b), or (c) or (20)(a), (b), or (c)) disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding groundwater to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"User of the electronic manifest system" means a dangerous waste generator, a dangerous waste transporter, an owner or operator of a dangerous waste treatment, storage, recycling or disposal facility, or any other person that:

- Is required to use a manifest to comply with:

- Any federal or state requirement to track the shipment, transportation, and receipt of dangerous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling or disposal; or

- Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and

- Elects to use the system to obtain, complete, and transmit an electronic manifest format supplied by the EPA electronic manifest system; or

- Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such paper copy), in accordance with WAC 173-303-370 (2)(e). These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

"Unwanted material" see WAC 173-303-235.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"Waste-derived fertilizer" means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include fertilizers derived from biosolids or

biosolid products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

"Wastewater treatment unit" means a device that:

Is part of a wastewater treatment facility which is subject to regulation under either:

Section 402 or section 307(b) of the Federal Clean Water Act; or

Chapter 90.48 RCW, State Water Pollution Control Act, provided that the waste treated at the facility is a state-only dangerous waste; and

Handles dangerous waste in the following manner:

Receives and treats or stores an influent wastewater; or

Generates and accumulates or treats or stores a wastewater treatment sludge; and

Meets the definition of tank or tank system in this section.

"Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

"Weekly inspections" means at least once during the period from Sunday to Saturday.

"Wipe" means a woven or nonwoven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

"Working container" see WAC 173-303-235.

"Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a dangerous waste release, can be readily cleaned up prior to the release of dangerous waste or dangerous constituents to groundwater or surface water.

Any terms used in this chapter which have not been defined in this section have either the same meaning as set forth in Title 40 C.F.R. Parts 260, 264, 270, and 124 or else have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. (1) Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 C.F.R. Parts 260 through 280 and Part 124, are in reference to those rules as they existed on July 1, ((2017)) 2019. Copies of the appropriate referenced federal requirements are available upon request from the department.

(2) The following sections and any cross-reference to these sections are not incorporated or adopted by reference because they are provisions that EPA cannot delegate to states:

(a) 40 C.F.R. Parts 260.1 (b)(4)-(6).

(b) 40 C.F.R. Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(l); and 265.430.

(c) 40 C.F.R. Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 (a) through (g).

(d) 40 C.F.R. Parts 270.1 (c)(1)(i); 270.3; 270.60(b); and 270.64.

(e) 40 C.F.R. Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(3) The following sections and any cross-references to these citations are not incorporated or adopted by reference: 40 C.F.R. Parts 260.20-260.22.

(4) Where EPA's regulations are incorporated by reference:

(a) "Regional administrator" means "the department."

(b) "Administrator" means "director."

(c) "Director" means "department."

(d) "40 C.F.R. 260.11" means "WAC 173-303-110(3)."

(e) These substitutions should be made as appropriate.

They should not be made where noted otherwise in this chapter. They should not be made where another EPA region is referred to, where a provision cannot be delegated to the state, or where the director referred to is the director of another agency.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-070 Designation of dangerous waste.

(1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates, or discovers on their site, a solid waste, as defined in WAC 173-303-016 (including recyclable materials) that is not exempted or excluded by this chapter, or by the department, or who is directed to or must further designate waste by subsection (4) or (5) of this section. Any person who generates or discovers a solid waste on their site must make an accurate determination if that waste is a dangerous waste in order to ensure wastes are properly managed according to applicable dangerous waste regulations. A dangerous waste determination is made by following the designation procedures set forth in subsection (3) of this section. Any person who determines by these procedures that their waste is designated DW or EHW is subject to all applicable requirements of this chapter.

(2)(a) Except as provided ((at WAC 173-303-070 (2))) in (c) of this subsection, once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and

(ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of WAC 173-303-140 (2)(a), even if they no longer exhibit a characteristic at the point of land disposal; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or

(iii) If originally designated only through WAC 173-303-100, it does not meet any of the criteria of WAC 173-303-100. Such solid waste will include, but not be limited to, any sludge, spill residue, ash emission control dust, leachate, or precipitation runoff. Precipitation runoff will not be considered a dangerous waste if it can be shown that the runoff has not been contaminated with the dangerous waste, or that the runoff is adequately addressed under existing state laws (e.g., chapter 90.48 RCW), or that the runoff does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(c)(i) A dangerous waste that is listed in WAC 173-303-081(1) or 173-303-082(1) solely because it exhibits one or more characteristics of ignitability as defined under WAC 173-303-090(5), corrosivity as defined under WAC 173-303-090(6), or reactivity as defined under WAC 173-303-090(7) is not a dangerous waste, if the waste no longer exhibits any characteristic of dangerous waste identified in WAC 173-303-090 or any criteria identified in WAC 173-303-100.

(ii) The exclusion described in (c)(i) of this subsection also pertains to:

(A) Any solid waste generated from treating, storing, or disposing of a dangerous waste listed in WAC 173-303-081(1) or 173-303-082(1) solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under (a) and (b) of this section.

(B) Wastes excluded under this section are subject to 40 C.F.R. Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a) (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

(3) Designation procedures.

(a) The dangerous waste designation for each solid waste must begin promptly at the point of waste generation or upon the discovery of a solid waste on their site. This must be done before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the solid waste or dangerous waste classification of the waste may change.

(b) A person must determine whether the solid waste is excluded from regulation under WAC 173-303-071.

(c) A person must check each section, in the order set forth in (d) of this subsection, to determine whether the waste is designated as a dangerous waste. When the waste is determined to be a dangerous waste following the steps in (d)(i) through (iii) of this subsection, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of this chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW must comply with the requirements of WAC 173-303-072.

(d) To determine whether or not a solid waste is designated as a dangerous waste a person must:

(i) First, determine if the waste is a listed discarded chemical product, WAC 173-303-081;

(ii) Second, determine if the waste is a listed dangerous waste source, WAC 173-303-082;

(iii) Third, determine if the waste also exhibits one or more dangerous waste characteristics, WAC 173-303-090; and

(iv) Fourth, if the waste is not listed in WAC 173-303-081 or 173-303-082, and does not exhibit a characteristic in WAC 173-303-090, determine if the waste meets one or more dangerous waste criteria, WAC 173-303-100.

(e) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person must either:

(i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or

(ii) Apply knowledge of the waste in light of the materials or the process used, when:

(A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated accurately; and

(B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained on-site; and

(C) When available knowledge is inadequate or absent to make an accurate designation, the generator must test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110.

(f) Persons testing their waste must obtain a representative sample of the waste for the testing set forth in WAC 173-303-110.

(g) Test results from properly performed test methods specified in WAC 173-303-090 and 173-303-100 are definitive for determining the designation and regulatory status of the waste.

(4) Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100. Such testing may be required if the department has reason to believe that the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that the waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW). If a person, pursuant to the requirements of this subsection, determines that the waste is a dangerous waste or that its designation must be changed, then they are subject to the applicable requirements of this chapter 173-303 WAC. The department will base a requirement to test a waste on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;

(c) Evidence that the persons' waste has historically been a DW or EHW;

(d) Evidence or information about a person's manufacturing materials or processes which indicate that the wastes may be DW or EHW; or

(e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for determining whether or not it designated and/or designated accurately.

(5) Additional designation required. A generator must manage dangerous waste under the most stringent management standards that apply. The following subsections describe how waste that has been designated as DW under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, or in the case of (c) of this subsection, under the lists, characteristics, or criteria, must be further designated under the dangerous waste criteria, WAC 173-303-100. This further designation under the criteria is necessary because it may change how the waste must be managed. Additional designation is required when:

(a) The waste is designated as DW with a QEL of 220 pounds and the generator otherwise qualifies as a small quantity generator. In this case, a generator must determine if their DW is also designated as a toxic EHW, WAC 173-303-100, with a QEL of 2.2 pounds; or

(b) The waste is designated as DW and the waste is to be discharged to a POTW operating under WAC 173-303-802 (4) (Permits by rule). In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100; or

(c) The waste is designated as a state-only DW and the waste is to be:

(i) Burned for energy recovery, as used oil, under the provisions of WAC 173-303-515; or

(ii) Land disposed within the state. In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100.

(6) Dangerous waste numbers. When a person is designating, reporting, or keeping records on a dangerous waste, they must use all the dangerous waste numbers which they know are assignable to the waste from the dangerous waste lists, characteristics, or criteria. For example, if the waste is ignitable *and* contains more than 5 mg/l leachable lead when tested for the toxicity characteristic, they must use the dangerous waste numbers of D001 and D008. This will not be construed as requiring a person to designate their waste beyond those designation requirements set forth in subsections (2) through (5) of this section.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from many of the requirements of chapter 173-303 WAC because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment.

WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter must comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 C.F.R. Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

(a)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment, except as prohibited by WAC 173-303-555(6), provided:

(A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;

(B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;

(C) The waste discharge is not prohibited under 40 C.F.R. Part 403.5; and

(D) The waste prior to mixing with domestic sewage must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and must not meet the dangerous waste criteria for toxic dangerous waste or persistent dangerous waste under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes that are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation

areas). A resource recovery facility managing municipal solid waste will not be deemed to be treating, storing, disposing of, or otherwise managing dangerous wastes for the purposes of regulation under this chapter, if such facility:

- (i) Receives and burns only:
 - (A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and
 - (B) Solid waste from commercial or industrial sources that does not contain dangerous waste; and
- (ii) Such facility does not accept dangerous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that dangerous wastes are not received at or burned in such facility;
 - (d) Agricultural crops and animal manures which are returned to the soil as fertilizers;
 - (e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials that have been used for structural and construction purposes (e.g., roads, dikes, paving) that were produced from mixtures of oil and sand, gravel, ash or similar substances;
 - (f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;
 - (g) Treated wood waste and wood products including:
 - (i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only) or that fails any state criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' intended end use. Intended end use means the wood products must have been used in typical treated wood applications (for example, fence posts, decking, poles, and timbers).
 - (ii) Wood treated with other preservatives provided such treated wood and wood waste (for example, sawdust and shavings) are, within one hundred eighty days after becoming waste:
 - (A) Disposed of at a landfill that is permitted in accordance with chapter 173-350 WAC, Solid waste handling standards, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or
 - (B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or
 - (C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood.
 - (h) Irrigation return flows;
 - (i) (Reserved);
 - (j) Mining overburden returned to the mining site;
 - (k) Polychlorinated biphenyl (PCB) wastes:

- (i) PCB containing dielectric fluid and electric equipment containing such fluid, and any PCB wastes meeting (k)(i)(B) of this subsection, whose disposal is regulated by EPA under 40 C.F.R. Part 761 (Toxic Substances Control Act) and that are dangerous either because:
 - (A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or
 - (B) Because they are designated only by this chapter and not designated by 40 C.F.R. Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 C.F.R. Part 266;
- (ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as WPCB under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 C.F.R. Part 761, Subpart D for PCB concentrations of 50 ppm or greater.

- (l) Samples:

- (i) Except as provided in (l)(ii) and (iv) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:
 - (A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or
 - (B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or
 - (C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).
- (ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

- (A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

- (B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:
 - (I) Assure that the following information accompanies the sample:
 - (AA) The sample collector's name, mailing address, and telephone number;
 - (BB) The laboratory's name, mailing address, and telephone number;
 - (CC) The quantity of the sample;
 - (DD) The date of shipment;
 - (EE) A description of the sample; and
 - (II) Package the sample so that it does not leak, spill, or vaporize from its packaging.
- (iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(iv) In order to qualify for the exemption in (l)(i) and (ii) of this subsection, the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg.

(m) (Reserved);

(n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (NAICS codes 331111 and 332111), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(vii) and (viii). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.

(r) Treatability study samples.

(i) Except as provided in (r)(ii) and (iv) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-172(1), 173-303-180, 173-303-190, and 173-303-200 (1)((a)), nor are such samples included in the quantity determinations of WAC ~~((173-303-070 (7) and (8) and 173-303-201))~~ 173-303-169 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute dangerous waste, 1 kg of acute hazardous waste, and 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 C.F.R. Part 261, to conduct further treatability study evaluation:

(A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:

There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(C) The additional quantities and time frames allowed in (r)(iii)(A) and (B) of this subsection are subject to all the provisions in (r)(i) and (r)(ii)(C) through (F) of this subsection. The generator or sample collector must apply to the department where the sample is collected and provide in writing the following information:

(I) The reason the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and

also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(V) Such other information that the department considers necessary.

(iv) In order to qualify for the exemption in (r)(i) and (ii) of this subsection, the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed 25 kg.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" dangerous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show

compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be

marked with a label or sign which identifies the hazard(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

(t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 C.F.R. Part 280.

(u) Special incinerator ash (as defined in WAC 173-303-040).

(v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.

(w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (w)(i) and (ii) of this subsection, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W which is incorporated by reference at WAC 173-303-400 (3)(a), regardless of whether the plant generates a total of less than 220 pounds/month of dangerous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department may reinstate the

exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(F) Additional reports.

(I) Upon determination by the department that the storage of wood preserving wastewaters and spent wood preserving solutions in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store wood preserving wastewaters and spent wood preserving solutions. This authority applies to tanks and secondary containment systems used to store wood preserving wastewaters and spent wood preserving solutions in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of wood preserving wastewaters and spent wood preserving solutions or the generation of hazardous by-products. Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(II) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(III) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (w)(iii)(F)(I) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the wood preserving wastewaters and spent wood preserving solutions until such repairs or improvements are completed and approved by the department.

(x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(y) Used oil filters that are recycled in accordance with WAC 173-303-120, as used oil and scrap metal.

(z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(aa)(i) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:

(A) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(B) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclu-

sively) and the process does not generate hexavalent chromium; and

(C) The waste is typically and frequently managed in nonoxidizing environments.

(ii) Specific wastes which meet the standard in (aa)(i) (A), (B), and (C) of this subsection (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

(A) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(B) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(F) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

(G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(H) Wastewater treatment sludges from the production of TiO₂ pigment using chromium-bearing ores by the chloride process.

(bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have

the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Maximum for any single
Constituent composite sample-TCLP (mg/l)

Generic exclusion levels for K061

and K062 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
(2)Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

Generic exclusion levels for

F006 nonwastewater HTMR residues

Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later

than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

(cc)(i) Oil-bearing hazardous secondary materials (that is, sludges, by-products, or spent materials) that are generated at a petroleum refinery (NAICS code 324110) and are inserted into the petroleum refining process (NAICS code 324110 - Including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (that is, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph: Provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in (cc)(ii) of this subsection, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (that is, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under WAC 173-303-081 and 173-303-082, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in (cc)(i) of this subsection. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (NAICS codes 211111, 211112, 213111, 213112, 541360, 237120, 238910, 324110, 486110, 486910, 486210, 221210, 488210, 488999, 424710, 454311, 454312, 424720, 425120). Recovered oil does not include oil-bearing hazardous wastes listed in WAC 173-303-081 and 173-303-082; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in WAC 173-303-040.

(dd) Dangerous waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are dangerous only because they exhibit the toxicity characteristic (TC) specified in WAC 173-303-090(8) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal

tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(ee) Biological treatment sludge from the treatment of one of the following wastes listed in WAC 173-303-9904 - organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K157) unless it exhibits one or more of the characteristics or criteria of dangerous waste.

(ff) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

(gg) Shredded circuit boards being recycled: Provided, That they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(hh) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (NAICS code 324110) along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in WAC 173-303-090(5) and/or toxicity for benzene (WAC 173-303-090(8), waste code D018); and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process.

An "associated organic chemical manufacturing facility" is a facility where the primary NAICS code is 325110, 325120, 325188, 325192, 325193, or 325199, but where operations may also include NAICS codes 325211, 325212, 325110, 325132, 325192; and is physically colocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (that is, sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(ii) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in WAC 173-303-016(5).

(jj) Catalyst inert support media separated from one of the following wastes listed in WAC 173-303-9904 Specific Sources - Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydrorefining catalyst (EPA Hazardous Waste No. K172). These wastes are not excluded

if they exhibit one or more of the dangerous waste characteristics or criteria.

(kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181 if these wastes had been generated after the effective date of the listing;

(ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate do not exhibit any characteristic or criteria of dangerous waste nor are derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) As of February 13, 2001, leachate or gas condensate derived from K169 - K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(ll) Dredged material. Dredged material as defined in 40 C.F.R. 232.2 that is subject to:

(i) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of a U.S. Army Corps of Engineers civil works project, the administrative equivalent of the permits referred to in (ll)(i) and (ii) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 C.F.R. 336.1, 336.2 and 337.3.

(mm) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 C.F.R. 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(nn)((+)) Controlled substances, legend drugs, and over-the-counter drugs that are state-only dangerous wastes((-

~~(A) Controlled substances as defined and regulated by chapter 69.50 RCW (Schedule I through V);~~

~~(B) Legend drugs as defined and regulated by chapter 69.41 RCW; and~~

~~(C) Over the counter drugs as defined and regulated by chapter 69.60 RCW.~~

~~(ii) Controlled substances, legend drugs, and over the counter drugs that)) and are held in the custody of law enforcement agencies ((or possessed by any licensee as defined and regulated by chapter 69.50 RCW or Title 18 RCW and authorized to possess drugs within the state of Washington are excluded;)) within the state of Washington, provided the drugs are disposed of by incineration in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour(;) and a combustion zone temperature greater than 1500 degrees Fahrenheit, or a facility permitted to incinerate municipal solid waste.~~

~~((iii) For the purposes of this exclusion the term "drugs" means:~~

~~(A) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;~~

~~(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or~~

~~(C) Substances (other than food) intended to affect the structure or any function of the body of man or other animals, as defined in RCW 18.64.011(3). (Note: RCW 18.64.011 (3) (d) is intentionally not included in the definition of drugs for this exclusion.)~~

~~(iv) When possessed by any licensee the term drugs used in this exclusion means finished drug products.))~~

(oo) Cathode ray tubes (CRTs) and glass removed from CRTs:

(i) Prior to processing: These materials are not solid wastes if they are destined for recycling and if they meet the following requirements:

(A) Storage. CRTs must be either:

(I) Stored in a building with a roof, floor, and walls; or

(II) Placed in a container (that is, a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

(B) Labeling. Each container in which the CRT is contained must be labeled or marked clearly with one of the following phrases: "Used cathode ray tube(s) - contains leaded glass" or "leaded glass from televisions or computers." It must also be labeled: "Do not mix with other glass materials."

(C) Transportation. CRTs must be transported in a container meeting the requirements of (oo)(i)(A)(II) and (B) of this subsection.

(D) Speculative accumulation and use constituting disposal. CRTs are subject to the limitations on speculative accumulation as defined in WAC 173-303-016 (5)(d). If they are used in a manner constituting disposal, they must comply with the applicable requirements of WAC 173-303-505 instead of the requirements of this section.

(E) Exports. In addition to the applicable conditions specified in (oo)(i)(A) through (D) of this subsection, exporters of CRTs must comply with the requirements in 40 C.F.R. 261.39(a)(5)(i) through (xi), which are incorporated by reference into this chapter 173-303 WAC.

(ii) Requirements for used CRT processing: CRTs undergoing CRT processing as defined in WAC 173-303-040 are not solid wastes if they meet the following requirements:

(A) Storage. CRTs undergoing processing are subject to the requirement of (oo)(i)(D) of this subsection.

(B) Processing.

(I) All activities specified in the second and third bullets of the definition of "CRT processing" in WAC 173-303-040 must be performed within a building with a roof, floor, and walls; and

(II) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

(iii) Processed CRT glass sent to CRT glass making or lead smelting: Glass from CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in WAC 173-303-016 (5)(d).

(iv) Use constituting disposal: Glass from used CRTs that is used in a manner constituting disposal must comply with the requirements of WAC 173-303-505.

(v) Notification and recordkeeping for cathode ray tubes (CRTs) exported for reuse. Persons who export CRTs for reuse must comply with the requirements in 40 C.F.R. 261.41, which are incorporated by reference into this chapter 173-303 WAC.

(pp) Zinc fertilizers made from hazardous wastes provided that:

(i) The fertilizers meet the following contaminant limits:

(A) For metal contaminants:

Maximum Allowable Total Concentration Constituent in Fertilizer, per Unit (1%) of Zinc (ppm)

Arsenic	0.3
Cadmium	1.4
Chromium.	0.6
Lead	2.8
Mercury	0.3

(B) For dioxin contaminants the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

(ii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) introduced into commerce.

(iii) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with the requirements of

(pp)(ii) of this subsection. Such records must at a minimum include:

(A) The dates and times product samples were taken, and the dates the samples were analyzed;

(B) The names and qualifications of the person(s) taking the samples;

(C) A description of the methods and equipment used to take the samples;

(D) The name and address of the laboratory facility at which analyses of the samples were performed;

(E) A description of the analytical methods used, including any cleanup and sample preparation methods; and

(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (3)(pp).

(qq) Debris. Provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

(i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 C.F.R. section 268.45, which is incorporated by reference at WAC 173-303-140 (2)(a); persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

(rr) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that:

(i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in nonleaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) The solvent-contaminated wipes may be accumulated by the generator for up to one hundred eighty days from the accumulation start date for each container prior to being sent for cleaning;

(iii) At the point of being sent for cleaning on site or at the point of being transported off site for cleaning, the solvent-contaminated wipes must contain no free liquids as defined in WAC 173-303-040;

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this chapter if the solvent designates as a dangerous waste;

(v) Generators must maintain at their site for five years the following documentation:

(A) Name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

(B) Documents proving that the one hundred eighty-day accumulation time limit in (rr)(ii) of this subsection is being met;

(C) Description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on site or at the point of being transported off site for laundering or dry cleaning;

(vi) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the Clean Water Act.

(ss) Solvent-contaminated wipes, except for wipes that are dangerous waste due to the presence of trichloroethylene, that are sent for disposal are not dangerous wastes from the point of generation, provided that:

(i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in nonleaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) The solvent-contaminated wipes may be accumulated by the generator for up to one hundred eighty days from the start date of accumulation for each container prior to being sent for disposal;

(iii) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids as defined in WAC 173-303-040;

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this chapter if the solvent designates as a dangerous waste;

(v) Generators must maintain at their site for five years the following documentation:

(A) Name and address of the permitted treatment, storage, and disposal facility that is receiving the solvent-contaminated wipes;

(B) Documentation that the one hundred eighty-day accumulation time limit in (ss)(ii) of this subsection is being met;

(C) Description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal;

(vi) The solvent-contaminated wipes are sent for disposal:

(A) To a dangerous waste landfill regulated under WAC 173-303-280 through 173-303-400; or

(B) To a dangerous waste combustor, boiler, or industrial furnace regulated under 40 C.F.R. Parts 264, 265, or 266, Subpart H.

(tt) Airbag waste.

(i) Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility provided that:

(A) The airbag waste is accumulated in a quantity of no more than two hundred fifty airbag modules or airbag inflators and for no longer than one hundred eighty days, whichever comes first;

(B) The airbag waste is packaged in a container designed to address the hazard posed by the airbag waste and labeled "Airbag Waste - Do Not Reuse";

(C) The airbag waste is sent directly to either:

(I) An airbag waste collection facility in the United States under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized party administering a remedy program in response to a recall under the National Highway Traffic Safety Administration;

(II) A designated facility as defined in WAC 173-303-040;

(D) The transport of the airbag waste complies with all applicable U.S. Department of Transportation regulations in 49 C.F.R. Part 171 through 180 during transit;

(E) The airbag waste handler maintains at the handler facility for no less than five years records of all off-site shipments of airbag waste and all confirmations of receipt from the receiving facility. For each shipment, these records must, at a minimum, contain the name of the transporter and date of the shipment; name and address of receiving facility; and the type and quantity of airbag waste (i.e., airbag modules or airbag inflators) in the shipment. Confirmations of receipt must include the name and address of the receiving facility; the types and quantity of the airbag waste (i.e., airbag modules or airbag inflators) received; and the date which it was received. Shipping records and confirmations of receipt must be made available for inspection upon request by an authorized state inspector and may be satisfied by routine business records (e.g., electronic or paper financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt);

(ii) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to all applicable dangerous waste regulations of this chapter, and the facility receiving airbag waste is considered the dangerous waste generator for the purposes of the dangerous waste regulations and must comply with the requirements of WAC 173-303-060, 173-303-070, and 173-303-169 through 173-303-210;

(iii) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration or managed under the exclusion is considered sham recycling and prohibited under WAC 173-303-016(8).

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-073 Conditional exclusion of special wastes. (1) Purpose and applicability. Special wastes pose a relatively low hazard to human health and the environment. The department believes that special wastes can be safely

managed with a level of protection that is intermediate between dangerous and nondangerous solid wastes. This section establishes a conditional exclusion for the management of special wastes. The definition for special waste is found in WAC 173-303-040.

(2) Exclusion. Special wastes are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050; 173-303-060; 173-303-140 (4)(c); 173-303-145; 173-303-960; and 173-303-510 excluding subsections (4)(a), (4)(b)(iii), (5), (6)(c), and (6)(d). In addition, special waste must be treated as dangerous waste for purposes of pollution prevention planning as required in chapters 173-307 and 173-305 WAC. Special wastes will not be considered as dangerous waste, provided they are managed in accordance with the standards in this subsection and provided they are disposed, legitimately recycled, or treated on-site consistent with the requirements of WAC 173-303-170 ~~((3)(e))~~ (2)(b)(v).

(a) Generators may not accumulate special waste on-site for more than one hundred eighty days from the date the quantity of waste exceeds two thousand two hundred pounds. The generator must keep a written record showing the dates when accumulation of the wastes began;

(b) During accumulation, special waste must be stored in a manner to prevent releases to the environment. This includes, but is not limited to, storing wastes in compatible containers, on impermeable surfaces, or in secondary containment structures, etc.;

(c) Facilities that receive special waste for recycling must meet the requirements of (b) of this subsection and store special wastes for no more than one hundred eighty days.

(d) All workers handling special wastes must be informed of the waste's potential hazard, either through worker training, health and safety plans, or notification of workers on a case-by-case basis;

(e) Special wastes must be transported directly from their site of generation to any off-site recycling, treatment, or disposal destination. The wastes must not pass through any intermediate solid waste processing facility, such as a transfer station, unless:

(i) The transfer station operator has made specific provisions for managing special waste by physical segregation, packing, or other means to ensure that workers and the public are not exposed to the waste stream at the transfer station;

(ii) The provisions are reflected in the facilities operating plans;

(iii) The plans have been approved by the transfer station's solid waste permitting authority;

(iv) The transfer station operator has informed workers of the wastes' potential hazard according to (d) of this subsection; and

(v) The waste is stored no more than thirty days at the transfer station, unless a longer storage time is approved by the solid waste permitting authority.

(f) A document must accompany special waste during transit which identifies the type and amount of special waste, its place of origin, the identity of the generator, and the facility to which it is directed. An example form is provided in WAC 173-303-9906. The generator and the receiving facility

must maintain a record of the facilities receipt of the special waste for at least five years;

(g) If a special waste being offered for transportation meets the definition of hazardous materials under 49 C.F.R. Parts 171 through 180, then the generator must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with applicable Department of Transportation regulations in 49 C.F.R. Parts 172 through 180;

(h) Disposal of special waste must be in landfill units which:

(i) Are permitted in accordance with chapter 173-351 WAC, provided that an engineered liner with leachate collection is used to meet the alternative design requirements of WAC 173-351-300, or are permitted under WAC 173-303-800 through 173-303-840 or if out-of-state under 40 C.F.R. Part 258 or Part 270; and

(ii) Are not currently undergoing corrective action under WAC 173-351-440(7), 40 C.F.R. 258.56, or a similar requirement in state regulations approved by the United States EPA pursuant to 42 U.S.C. 6945 (c)(1)(B).

(3) Reserve.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-081 Discarded chemical products. (1)

A waste will be designated as a dangerous waste and assigned a "P" or "U" code if it is handled in any of the manners described in (e) of this subsection, and if it is a residue from the management of:

(a) A commercial chemical product or manufacturing chemical intermediate (see definition in WAC 173-303-040) which has the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(b) An off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(c) Any containers, inner liners, or residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate that has, or any off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed on the "P" or "U" discarded chemical products list of WAC 173-303-9903, unless the containers or inner liners are empty as described in WAC 173-303-160(2) or 173-303-555(8);

(d) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of a commercial chemical product or manufacturing chemical intermediate which has, or of an off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(e) The materials or items described in (a), (b), (c), and (d) of this subsection are dangerous wastes when they are:

(i) Discarded or intended to be discarded as described in WAC 173-303-016 (3)(b)(i);

(ii) Burned for purposes of energy recovery in lieu of their original intended use;

(iii) Used to produce fuels in lieu of their original intended use;

(iv) Applied to the land in lieu of their original intended use; or

(v) Contained in products that are applied to the land in lieu of their original intended use.

(2) Quantity exclusion limits:

(a) A person with a waste or wastes (including residues from the management of wastes) identified in subsection (1) of this section, will be a dangerous waste generator (and may not be considered a small quantity generator as ~~provided~~ determined in WAC ~~((173-303-070(8)))~~ 173-303-169(3)) if the amount of ~~(his)~~ their waste exceeds the following quantity exclusion limits:

(i) For chemicals designated on the "P" discarded chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) per month or per batch. Such wastes are designated DW and are identified as acute hazardous wastes;

(ii) For chemicals, and for residues from the cleanup of spills involving chemicals, designated on the "U" discarded chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated DW;

(iii) For containers or inner liners which held any chemical designated on the "P" discarded chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) of residue remaining in the containers or inner liners per month or per batch unless the containers or inner liners meet the definition of empty and have been triple rinsed as described in WAC 173-303-160(2). Such wastes are designated DW and are identified as acute hazardous wastes;

(iv) For residues, contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any chemical designated on the "P" discarded chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated DW and are identified as acute hazardous wastes.

(b) A person's total monthly waste quantity is the sum of all their wastes which share a common quantity exclusion limit (e.g., the total quantity of all discarded chemical products with a 2.2 pound QEL, the total quantity of all residues contaminated by discarded chemical products with a 2.2 pound QEL, etc.) which were generated during a month or a batch operation at each specific waste generation site.

(3) Dangerous waste numbers and mixtures. A waste that has been designated as a discarded chemical product dangerous waste must be assigned the dangerous waste number or numbers listed in WAC 173-303-9903 next to the generic chemical or chemicals that caused the waste to be designated. A mixture of a solid waste with a waste that would be designated as a discarded chemical product under this section must be designated. The mixture designation is the same as the designation for the discarded chemical product that was mixed with the solid waste unless it has been excluded under WAC 173-303-070 (2)(c). For example, a mixture containing 2.2 lbs. (1 kg) of Aldrin (dangerous waste number P004, DW designation, QEL of 2.2 lbs.) and 22 lbs. (10 kg) of a solid waste, would be designated DW, and identified as acute haz-

ardous waste. The mixture would have the dangerous waste number P004.

(4) Reserve.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-082 Dangerous waste sources. (1) The dangerous waste sources list appears in WAC 173-303-9904. Any waste that is listed or is a residue from the management of a waste listed on the dangerous waste sources list must be designated a dangerous waste, and identified as DW. Dangerous waste sources codes include WPCB or codes that begin with an "F" or "K."

(2) Quantity exclusion limit. A person whose waste is listed in WAC 173-303-9904 (including residues from the management of such wastes) is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC (~~(173-303-070(8))~~) 173-303-170(2)) if the amount of their waste exceeds the following quantity exclusion limits:

(a) 2.2 lbs. (1 kg) per month or per batch for wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027. These wastes are designated DW and identified as acute hazardous wastes;

(b) 220 lbs. (100 kg) per month or per batch of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water of a waste listed in (a) of this subsection, or of an acute hazardous waste listed in WAC 173-303-9904 under specific sources ("K" wastes). Note: Acute hazardous K listed wastes are followed by an "H." These wastes are designated DW and identified as acute hazardous wastes; or

(c) 220 lbs. (100 kg) per month or per batch for all other wastes.

(3) Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. A mixture of a solid waste with a waste that would be designated as a dangerous waste source under this section must be designated as a dangerous waste source unless it has been excluded under WAC 173-303-070 (2)(c). The mixture has the same designation (DW), and the same dangerous waste number as the dangerous waste source which was mixed with the solid waste.

(4) 40 C.F.R. Part 261 Appendix VII *Basis for Listing Hazardous Waste* is adopted by reference.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-090 Dangerous waste characteristics.

(1) Purpose. The purpose of this section is to set forth characteristics which a solid waste might exhibit and which would cause that waste to be a dangerous waste.

(2) Representative samples. The department will consider a sample obtained using any of the applicable sampling methods described in WAC 173-303-110(2), sampling and testing methods, to be a representative sample.

(3) Equivalent test methods. The testing methods specified in this section are the only acceptable methods, unless

the department approves an equivalent test method in accordance with WAC 173-303-910(2).

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it exhibits one or more of the dangerous waste characteristics described in subsections (5), (6), (7), and (8) of this section. If a person's solid waste exhibits one or more of these characteristics, then he or she is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC (~~(173-303-070(8))~~) 173-303-170(2)) if the quantity of their waste exceeds 220 lbs. (100 kg) per month or per batch.

(5) Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D93-06, or a Setafash Closed Cup Tester, using the test method specified in ASTM Standard D3278-96 (2004)e1 as incorporated by reference at WAC 173-303-110 (3)(h)(v) and (vi);

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;

(iii) It is an ignitable compressed gas.

(A) The term "compressed gas" applies to any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at 70 degrees F or, regardless of the pressure at 70 degrees F, having an absolute pressure exceeding 104 p.s.i. at 130 degrees F; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at 100 degrees F as determined by ASTM Test D-323.

(B) A compressed gas must be characterized as ignitable if any one of the following occurs:

(I) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits must be determined at atmospheric temperature and pressure. The method of sampling and test procedure must be acceptable to the Bureau of Explosives and approved by the director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation (see Note 2).

(II) Using the Bureau of Explosives' Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or the flame flashes back and burns at the valve with any degree of valve opening.

(III) Using the Bureau of Explosives' Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

(IV) Using the Bureau of Explosives' Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum; or,

(iv) It is an oxidizer. An oxidizer for the purpose of this subsection is a substance such as a chlorate, permanganate,

inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter (see Note 4).

An organic compound containing the bivalent -O-O- structure and which may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

(A) It is a forbidden explosive as defined in 49 C.F.R. 173.54, or a Class 1 explosive, Division 1.1, Division 1.2, Division 1.3, and Division 1.5, as defined in 49 C.F.R. 173.50, in which case it must be classed as an explosive;

(B) The material is forbidden to be offered for transportation according to 49 C.F.R. 172.101 and 49 C.F.R. 173.21;

(C) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide; or

(D) According to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3), it has been determined that the material does not present a hazard in transportation.

Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.

Note 2: As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1980 publication of 49 C.F.R. 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 C.F.R. 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 4: The DOT regulatory definition of an oxidizer was contained in Sec. 173.151 of 49 C.F.R., and the definition of an organic peroxide was contained in paragraph 173.151a. An organic peroxide is a type of oxidizer.

(b) A solid waste that exhibits the characteristic of ignitability must be designated DW, and assigned the dangerous waste number of D001.

(6) Characteristic of corrosivity.

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has any one or more of the following properties:

(i) It is aqueous and has a pH less than or equal to 2, or greater than or equal to 12.5, as determined by a pH meter using Method 9040C in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in WAC 173-303-110 (3)(a);

(ii) It is liquid and corrodes steel (SAE 1020) at a rate greater than 0.250 inch (6.35 mm) per year at a test temperature of 55 degrees C (130 degrees F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM0169-2000 as standardized in

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," (Method 1110A) EPA Publication SW-846, as incorporated by reference in WAC 173-303-110 (3)(a); or

(iii) It is solid or semisolid which, upon testing using Method 9045D in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW 846), results in a pH less than or equal to 2, or greater than or equal to 12.5.

(b) A solid waste that exhibits the characteristic of corrosivity because:

(i) It has either of the properties described in (a)(i) or (ii) of this subsection will be designated DW, and assigned the dangerous waste number of D002;

(ii) It only has the property described in (a)(iii) of this subsection will be designated DW, and assigned the dangerous waste number of WSC2.

(7) Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating;

(ii) It reacts violently with water;

(iii) It forms potentially explosive mixtures with water;

(iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

(viii) It is a forbidden explosive as defined in 49 C.F.R. 173.54, or a Class 1 explosive, Division 1.1, Division 1.2, Division 1.3, and Division 1.5, as defined in 49 C.F.R. 173.50 and 173.53.

(b) A solid waste that exhibits the characteristic of reactivity must be designated DW, and assigned the dangerous waste number of D003.

(8) Toxicity characteristic.

(a) A solid waste exhibits the characteristic of toxicity if, using the *Toxicity Characteristic Leaching Procedure* (TCLP), test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in WAC 173-303-110 (3)(a), the extract from a representative sample of the waste contains any of the contaminants listed in the toxicity characteristic list in (c) of this subsection, at concentrations equal to or greater than the respective value given in the list. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purpose of this subsection.

(b) A solid waste that exhibits the toxicity characteristic has the dangerous waste number specified in the list which

corresponds to the toxic contaminant causing it to be dangerous.

(c) Toxicity characteristic list. Any waste that contains contaminants which occur at concentrations at or above the DW threshold must be designated DW.

TOXICITY CHARACTERISTICS LIST:

Maximum Concentration of Contaminants
for the Toxicity Characteristic

Dangerous Waste Number	Contaminant	(Chemical Abstracts Services #)	DW (mg/L)
D004	Arsenic	(7440-38-2)	5.0
D005	Barium	(7440-39-3)	100.0
D018	Benzene	(71-43-2)	0.5
D006	Cadmium	(7440-43-9)	1.0
D019	Carbon tetrachloride	(56-23-5)	0.5
D020	Chlordane	(57-74-9)	0.03
D021	Chlorobenzene	(108-90-7)	100.0
D022	Chloroform	(67-66-3)	6.0
D007	Chromium	(7440-47-3)	5.0
D023	o-Cresol	(95-48-7) /1/	200.0
D024	m-Cresol	(108-39-4) /1/	200.0
D025	p-Cresol	(106-44-5) /1/	200.0
D026	Cresol	/1/	200.0
D016	2,4-D	(94-75-7)	10.0
D027	1,4-Dichlorobenzene	(106-46-7)	7.5
D028	1,2-Dichloroethane	(107-06-2)	0.5
D029	1,1-Dichloroethylene	(75-35-4)	0.7
D030	2,4-Dinitrotoluene	(121-14-2) /2/	0.13
D012	Endrin	(72-20-8)	0.02
D031	Heptachlor (and its epoxide)	(76-44-8)	0.008
D032	Hexachlorobenzene	(118-74-1) /2/	0.13
D033	Hexachlorobutadiene	(87-68-3)	0.5
D034	Hexachloroethane	(67-72-1)	3.0
D008	Lead	(7439-92-1)	5.0
D013	Lindane	(58-89-9)	0.4
D009	Mercury	(7439-97-6)	0.2
D014	Methoxychlor	(72-43-5)	10.0
D035	Methyl ethyl ketone	(78-93-3)	200.0
D036	Nitrobenzene	(98-95-3)	2.0
D037	Pentachlorophenol	(87-86-5)	100.0
D038	Pyridine	(110-86-1) /2/	5.0
D010	Selenium	(7782-49-2)	1.0
D011	Silver	(7440-22-4)	5.0
D039	Tetrachloroethylene	(127-18-4)	0.7
D015	Toxaphene	(8001-35-2)	0.5
D040	Trichloroethylene	(79-01-6)	0.5

Dangerous Waste Number	Contaminant	(Chemical Abstracts Services #)	DW (mg/L)
D041	2,4,5-Trichlorophenol	(95-95-4)	400.0
D042	2,4,6-Trichlorophenol	(88-06-2)	2.0
D017	2,4,5-TP (Silvex)	(93-72-1)	1.0
D043	Vinyl chloride	(75-01-4)	0.2

/1/ If 0-, m-, and p-Cresol concentrations cannot be differentiated, the total cresol (D026) concentration is used.

/2/ At the time the TC rule was adopted, the quantitation limit was greater than the calculated regulatory level. The quantitation limit therefore became the regulatory level.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-100 Dangerous waste criteria. (1) Purpose. The purpose of this section is to describe methods for determining if a solid waste is a dangerous waste by the criteria set forth in this section. The dangerous waste criteria consist of:

- (a) Toxic dangerous wastes; and
- (b) Persistent dangerous wastes.

(2) References. The following toxicity data sources are adopted by reference:

(a) The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(b) The United States Environmental Protection Agency, Ecotoxicology Database (ECOTOX), Mid-Continent Ecology Division, 6201 Congdon Boulevard, Duluth, MN 55804.

(c) The United States National Library of Medicine Toxicology Data Network, Hazardous Substance Database (HSDB), 8600 Rockville Pike, Bethesda, MD 20894.

(3) A person must use data that are available to him or her, and, when such data are inadequate for the purposes of this section, must refer to the references identified in WAC 173-303-100(2) to determine:

(a) Toxicity data or toxic category for each known constituent in the waste;

(b) Whether or not each known constituent of the waste is a halogenated organic compound or a polycyclic aromatic hydrocarbon as defined in WAC 173-303-040.

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it meets one or more of the dangerous waste criteria described in subsections (5) and (6) of this section. If a person's solid waste meets one or more of these criteria then he or she is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC ((173-303-070(8))) 173-303-170(2)) if the quantity of the waste exceeds the following quantity exclusion limits:

(a) For toxic dangerous wastes designated as EHW (WT01), the quantity exclusion limit is 2.2 lbs. per month.

(b) For any WT01 residue or contaminated soil, water, or other debris resulting from the clean up of a spill, into or on any land or water, the quantity exclusion limit is 220 lbs. per month.

(c) For all other wastes designating under this section the quantity exclusion limit is 220 lbs. (100 kg) per month or per batch.

(5) Toxicity criteria. Except as provided in WAC 173-303-070 (4) or (5), a person must determine if a solid waste meets the toxicity criteria under this section by following either the instructions for book designation, when his knowledge of the waste is sufficient, or by testing the waste using the biological testing methods adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the toxic constituents in the waste or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for toxicity under this subsection.

(b) Book designation procedure. A person may determine if a waste meets the toxicity criteria by following the book designation instructions as follows:

(i) A person must determine the toxic category for each known constituent. The toxic category for each constituent may be determined from available data, for example, Registry for Toxic Effects of Chemical Substances (RTECS), Hazardous Substances Data Bank (HSDB), and Ecotoxicology database (ECOTOX). The toxic category should then be identified, using the table below. If data are available for more than one test endpoint (that is, fish, oral rat, inhalation rat, or dermal rabbit), the value with the highest toxicity must be used. Similarly, if toxicity data do not agree on the same toxic category within the same test endpoint, the value with the highest toxicity must be used.^a Finally, if toxicity data for a constituent cannot be found in reasonably available sources (for example, RTECS, HSDB or ECOTOX), the toxic category for that constituent need not be determined.

TOXIC CATEGORY TABLE

Toxic Category	Fish LC ₅₀ (mg/L) ^b	Oral Rat LD ₅₀ (mg/kg)	Inhalation Rat LC ₅₀ (mg/L) ^c	Dermal Rabbit LD ₅₀ (mg/kg)
X	<0.01	<0.5	<0.02	<2
A	0.01 - <0.1	0.5 - <5	0.02 - <0.2	2 - <20
B	0.1 - <1	5 - <50	0.2 - <2	20 - <200
C	1 - <10	50 - <500	2 - <20	200 - <2000
D	10 - 100	500 - 5000	20 - 200	2000 - 20,000

^a These four test endpoints are defined in WAC 173-303-040.
^b Fish LC₅₀ data must be derived from an exposure period greater than or equal to twenty-four hours. A hierarchy of species LC₅₀ data should be used that includes (in decreasing order of preference) salmonids, fathead minnows, and other fish species.
^c Inhalation Rat LC₅₀ data must be derived from an exposure period greater than or equal to one hour.

(ii) A person whose waste contains one or more toxic constituents must determine the equivalent concentration for the waste from the following formula:

$$\text{Equivalent Concentration (\%)} = \frac{\sum X\%}{1} + \frac{\sum A\%}{10} + \frac{\sum B\%}{100} + \frac{\sum C\%}{1000} + \frac{\sum D\%}{10,000}$$

where $\sum(X,A,B,C, \text{ or } D)\%$ is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (A Category) - .01%; Endrin (A Category) - 1%; Benzene (D Category) - 4%; Phenol (C Category) - 2%; Dinoseb (B Category) - 5%; Water (nontoxic) - 87%. The equivalent concentration (E.C.) would be:

$$\begin{aligned} \text{E.C. (\%)} &= \frac{0\%}{1} + \frac{(0.01\%+1.0\%)}{10} + \frac{5.0\%}{100} + \frac{2.0\%}{1000} + \frac{4.0\%}{10,000} \\ &= 0\% + 0.101\% + 0.05\% + 0.002\% + 0.0004\% = 0.1534\% \end{aligned}$$

So the equivalent concentration equals 0.1534%.

(iii) A person whose waste contains toxic constituents must determine its designation according to the value of the equivalent concentration:

(A) If the equivalent concentration is less than 0.001%, the waste is not a toxic dangerous waste; or

(B) If the equivalent concentration is equal to or greater than 0.001% and less than 1.0%, the person will designate the waste as DW and assign the dangerous waste number WT02; and

(C) If the equivalent concentration is equal to or less than 0.01%, the DW may also be a special waste; or

(D) If the equivalent concentration is equal to or greater than 1.0%, the person will designate the waste as EHW and assign the dangerous waste number WT01.

Example 1. Continued. The equivalent concentration of 0.1534% (from Example 1. above) is greater than 0.001% and less than 1.0%. The waste is DW and the dangerous waste number WT02 must be assigned.

(iv) Reserve.

(c) Designation from bioassay data. A person may determine if a waste meets the toxicity criteria by following the bioassay designation instructions of either:

(i) The DW bioassay. To determine if a waste is DW, a person must establish the toxicity category range of a waste by means of the 100 mg/L acute static fish test (~~or the 5000 mg/kg oral rat test~~), as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). If data from the test indicates that the waste is DW, then the person will assign the dangerous waste number WT02. Otherwise, the waste is not regulated as toxic dangerous waste. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to determine whether the waste is EHW, or in the case of state-only solid dangerous waste, if the person chooses to determine whether the waste is special waste; or

(ii) The EHW and special waste bioassay. To determine if a waste is EHW, a person must establish the toxicity of a waste by means of the fish bioassay at 10 mg/L (~~or the rat bioassay at 50 mg/kg~~), as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). (NOTE: A fish bioassay at 1 mg/L corresponds with the definition of EHW, which includes toxic categories X-B. However, the fish bioassay is not reproducible at these low levels.) If data from the test indicates that the waste is EHW, then the person will assign the dangerous waste number WT01. Otherwise,

the waste will be designated DW, and the person will assign the dangerous waste number WT02. A person with state-only solid waste may choose to test a waste to determine if it is special waste. Testing levels for special waste must be at 10 mg/L for the fish bioassay (~~or 500 mg/Kg for the oral rat bioassay~~). No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to test the waste in accordance with WAC 173-303-100 (5)(c)(i) to determine if the waste is not regulated as toxic dangerous waste.

(d) If the designation acquired from book designation and bioassay data do not agree, then bioassay data will be used to designate a waste. If a waste is designated as DW or EHW following the book designation procedure, a person may test the waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3) ~~(using either the static acute fish or the acute oral rat method,)~~ to demonstrate that the waste is not a dangerous waste or should be designated as DW and not EHW.

(e) A waste designated as DW by toxicity criteria must be assigned the dangerous waste number of WT02. A waste designated as EHW by toxicity criteria must be assigned the dangerous waste number of WT01.

(6) Persistence criteria. For the purposes of this section, persistent constituents are chemical compounds which are either halogenated organic compounds (HOC), or polycyclic aromatic hydrocarbons (PAH), as defined under WAC 173-303-040. Except as provided in WAC 173-303-070 (4) or (5), a person may determine the identity and concentration of persistent constituents by either applying knowledge of the waste or by testing the waste according to WAC 173-303-110 (3)(c) *Chemical Testing Methods for Designating Dangerous Waste* Publication #97-407.

(a) Except as provided in WAC 173-303-070(4), if a person knows only some of the persistent constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for persistence under this subsection.

(b) When a waste contains one or more halogenated organic compounds (HOC) for which the concentrations are known, the total halogenated organic compound concentration must be determined by summing the concentration percentages for all of the halogenated organic compounds for which the concentration is known.

Example 2. A waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .020%. The total halogenated organic compound concentration would be:

Total HOC Concentration (%) = .009% + .012% + .020% = .041%

(c) A person whose waste contains polycyclic aromatic hydrocarbons (PAH) as defined in WAC 173-303-040, must determine the total PAH concentration by summing the concentration percentages of each of the polycyclic aromatic hydrocarbons for which they know the concentration.

Example 3. A person's waste contains: Chrysene - .08%; 3,4 - benzo(a)pyrene - 1.22%. The total polycyclic aromatic hydrocarbon concentration would be:

Total PAH Concentration (%) = .08% + 1.22% = 1.30%

(d) A person whose waste contains halogenated organic compounds and/or polycyclic aromatic hydrocarbons must determine its designation from the persistent dangerous waste table.

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains...	At a total concentration level of...	Then your waste's designation, and waste # are...
Halogenated Organic Compounds (HOC)	0.01% to 1.0% greater than 1.0%	DW, WP02 EHW, WP01
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*, WP03

*No DW concentration level for PAH.

(7) Reserve.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-110 Sampling, testing methods, and analyses. (1) Purpose. This section sets forth the testing methods to be used to comply with the requirements of this chapter. Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation. All methods and publications listed in this section are incorporated by reference.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

(i) Crushed or powdered material - ASTM Standard D346-04e1;

(ii) Extremely viscous liquid - ASTM Standard D140-01 (2007);

(iii) Fly ash-like material - ASTM Standard D2234/D2234M-03e1;

(iv) Soil-like material - ASTM Standard D1452-80 (2000);

(v) Soil or rock-like material - ASTM Standard D420-98 (2003);

(vi) Containerized liquid wastes - "COLIWASA" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a), or the equivalent representative sampling method described in ASTM D5743-97 (2003). Per this method, the selection of an appropriate device must be best suited for the characteristics of the waste being sampled; and

(vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards which can be obtained by writing to:

ASTM
100 Barr Harbor Drive

West Conshohocken, PA 19428-2959

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained by writing to the appropriate address below:

For copies of Department of Ecology test methods:

Attn: Test Procedures
Hazardous Waste Section
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

For copies of SW-846, including updates, and 40 C.F.R. Part 261:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402
202-512-1800

For copies of ASTM methods:

ASTM
100 Barr Harbor Drive
West Conshohocken, PA 19428-2959

For copies of APTI methods:

APTI
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

The document titles and included test procedures are as follows:

(a) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846* (Third Edition (November 1986) as amended by Updates I (dated July 1992), II (dated September 1994), IIA (dated August 1993), IIB (dated January 1995), III (dated December 1996), IIIA (dated April 1998), IIIB (dated July 2005), Update IVA and IVB (dated February 2007)), and Update V (dated August 2015) which is incorporated by reference. The Third Edition of SW-846, as amended by Final Updates I, II, IIA, IIB, III, IIIA, IIIB, IVA, IVB, ~~(and)~~ V, and VI, is available in portable document format (PDF) on EPA's Office of Resource Conservation and Recovery web page at <http://www.epa.gov/hw-sw846>;

(b) *Biological Testing Methods for the Designation of Dangerous Waste*, Department of Ecology Publication #80-12, the latest revision, describing procedures for

(i) ~~the static acute fish toxicity test~~ ~~(and~~

~~ii) Acute oral rat toxicity test~~).

(c) *Chemical Test Methods for Designating Dangerous Waste*, Department of Ecology Publication #97-407, ~~(revised December 2014)~~ the latest revision, describing methods for testing:

- (i) Ignitability;
- (ii) Corrosivity;
- (iii) Reactivity;
- (iv) Toxicity characteristic leaching procedure;
- (v) Halogenated organic compounds; and
- (vi) Polycyclic aromatic hydrocarbons.

(d) (Reserved);

(e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and

(ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D4059-00 (2005)e1.

(f) Appropriate analytical procedures to determine whether a sample contains a given toxic constituent are specified in Chapter Two, "Choosing the Correct Procedure" found in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846*;

(g) The following publications for air emission standards (in addition to (a) of this subsection):

(i) ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography, ASTM Standard D1946-90 (2006).

(ii) ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), ASTM Standard D4809-06.

(iii) ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM Standard E169-04.

(iv) ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM Standard E168-06.

(v) ASTM Standard Practice for Packed Column Gas Chromatography, ASTM Standard E260-96 (2006).

(vi) ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography, ASTM Standard D5580-02.

(vii) ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, ASTM Standard D2879-97 (2002)e1.

(viii) "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981.

(ix) API Manual of Petroleum Measurement Standards (MPMS) chapter 19.2 (API MPMS 19.2), *Evaporative Loss from External Floating-Roof Tanks* (formerly API Publications 2517 and 2519), Third Edition, American Petroleum Institute, Washington D.C., October 2012.

(h) The following publications:

(i) "NFPA 30 Flammable and Combustible Liquids Code" (2015), available from the National Fire Protection Association, NFPA Headquarters, 1 Batterymarch Park, Quincy, MA 02169-7471.

(ii) U.S. EPA, "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No. EPA-450/R-92-019, Environmental Protection Agency, Research Triangle Park, NC.

(iii) "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E926-94, Test Method C-Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.

(iv) Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry. Available from NTIS,

PB99-121949, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

(v) ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester, ASTM Standard D3278-96 (2004)e1, available from American Society for Testing and Materials.

(vi) ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester, ASTM Standard D93-06.

(vii) API Manual of Petroleum Measurement Standards (MPMS) chapter 19.2 (API MPMS 19.2), Evaporative Loss from External Floating-Roof Tanks (formerly API Publications 2517 and 2519), Third Edition, American Petroleum Institute, Washington D.C., October 2012.

(4) Substantial changes to the testing methods described above will be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request department approval for the use of an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

(6) Reporting analytical results. Ecology requires that all test methods report their analytical results for solid and soil samples on a dry weight basis. Reporting on a dry weight basis compensates for variability in water content and provides a consistent procedure for all analytical results provided to ecology for designation purposes.

(7) "Ground-Water Monitoring List" Appendix IX to 40 C.F.R. Part 264 is replaced with the version in Appendix 5 of *Chemical Test Methods for Designating Dangerous Waste*, Department of Ecology Publication #97-407, revised December 2014. The Appendix "Ground-Water Monitoring List" in *Chemical Testing Methods* includes the columns "Suggested methods" and "PQL."

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-140 Land disposal restrictions. (1) Purpose.

(a) The purpose of this section is to encourage the best management practices for dangerous wastes according to the priorities of RCW 70.105.150 which are, in order of priority:

- (i) Reduction;
- (ii) Recycling;
- (iii) Physical, chemical, and biological treatment;
- (iv) Incineration;
- (v) Stabilization and solidification; and
- (vi) Landfill.

(b) This section identifies dangerous wastes that are restricted from land disposal, describes requirements for restricted wastes, and defines the circumstances under which a prohibited waste may continue to be land disposed.

(c) For the purposes of this section, the term "landfill," as stated in the priorities of RCW 70.105.150, will be the same as the term "land disposal." Land disposal will be used in this section to identify the lowest waste management priority.

(2) Applicability.

The land disposal restrictions of this section apply to any person who owns or operates a dangerous waste treatment, storage, or disposal facility in Washington state and to any person who generates or transports dangerous waste.

(a) Land disposal restrictions for wastes designated in accordance with WAC 173-303-070 (3)(~~(a)(i), (ii), and~~) (d)(i) through (iii) are the restrictions set forth by the Environmental Protection Agency in 40 C.F.R. Part 268 which are incorporated by reference into this regulation, as modified in (c) through (f) of this subsection, and the restrictions set forth in subsections (3) through (7) of this section. The words "regional administrator" (in 40 C.F.R.) will mean the "department," except for 40 C.F.R. Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 (a) through (g). The authority for implementing these excluded C.F.R. sections remains with the U.S. Environmental Protection Agency. The word "EPA" (in 40 C.F.R.) means "Ecology" at 40 C.F.R. 268.44(m) and 268.45(a). The exemption and exception provisions of subsections (3) through (7) of this section are not applicable to the federal land disposal restrictions.

Where the federal regulations that have been incorporated by reference refer to 40 C.F.R. 260.11, data provided under this section must instead meet the requirements of WAC 173-303-110.

(b) Land disposal restrictions for state-only dangerous waste are the restrictions set forth in subsections (3) through (7) of this section.

(c) Where 40 C.F.R. 268.7 (a)(1) is incorporated by reference, delete the sentence "Alternatively, the generator must send the waste to a RCRA-permitted (~~dangerous~~) hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of 264.13 of this chapter and (~~268.7~~) paragraph (b) of this section."

(d) Where 40 C.F.R. 268.7 (a)(2) is incorporated by reference:

(i) Delete the words "or if the generator chooses not to make the determination of whether their waste must be treated" from the first sentence; and

(ii) Delete the sentence "(Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state 'This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination'.)"

(e) Where 40 C.F.R. 268.7 (b)(6) is incorporated by reference, replace the words "for the initial shipment of waste, prepare a one-time certification described in paragraph (b)(4) of this section, and a one-time notice which includes the information in paragraph (b)(3) of this section (except the manifest number)" with the words "submit a certification described in paragraph (b)(4) of this section, and a notice which includes the information listed in paragraph (b)(3) of this section (except for the manifest number) to the department for each shipment".

(f) Where 40 C.F.R. 268.9(d) is incorporated by reference, replace paragraph (d) with the following: Wastes that exhibit a characteristic are also subject to Section 268.7 requirements, except that once the waste is no longer dangerous, a one-time notification and certification must be placed

in the generators or treaters files and sent to the department. The notification and certification that is placed in the generators or treaters files must be updated if the process or operation generating the waste changes and/or if the subtitle D facility receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31.

(i) The notification must include the following information:

(A) Name and address of the RCRA Subtitle D facility receiving the waste shipment; and

(B) A description of the waste as initially generated, including the applicable dangerous waste code(s), treatability group(s), and underlying hazardous constituents (as defined in Sec. 268.2(i)), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.

(ii) The certification must be signed by an authorized representative and must state the language found in Section 268.7 (b)(4).

If treatment removes the characteristic but does not meet standards applicable to underlying hazardous constituents, then the certification found in Sec. 268.7 (b)(4)(iv) applies.

(3) Definitions.

When used in this section the following terms have the meaning provided in this subsection. All other terms have the meanings given under WAC 173-303-040.

(a) "Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents which have caused a waste to be a dangerous waste under this chapter.

(b) "Land disposal" means placement in a facility or on the land with the intent of leaving the dangerous waste at closure, and includes, but is not limited to, placement for disposal purposes in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground cave or mine; concrete vault or bunker.

(c) "Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

(d) "Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity test of WAC 173-303-090 (6)(a)(iii).

(e) "Stabilization" and "solidification" mean a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

(4) Land disposal restrictions and prohibitions. The land disposal requirements of this subsection apply to land disposal in Washington state.

(a) Disposal of extremely hazardous waste (EHW). No person may land dispose of EHW, except as provided in subsection (5) of this section, at any land disposal facility in the state. No person may land dispose of EHW at the facility established under RCW 70.105.050, except as provided by subsections (5), (6), and (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(b) Disposal of liquid waste. Special requirements for bulk and containerized liquids.

(i) The placement of bulk or noncontainerized liquid dangerous waste or dangerous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

(ii) Containers holding free liquids must not be placed in a landfill unless:

(A) All free-standing liquid:

(I) Has been removed by decanting, or other methods; or

(II) Has been mixed with sorbent or stabilized (solidified) so that free-standing liquid is no longer observed; or

(III) Has been otherwise eliminated; or

(B) The container is very small, such as an ampule; or

(C) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(D) The container is a labpack and is disposed of in accordance with WAC 173-303-161 and this chapter.

(iii) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following tests must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" EPA Publication SW-846 as incorporated by reference in WAC 173-303-110 (3)(a).

(iv) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: Materials listed or described in (b)(iv)(A) of this subsection; materials that pass one of the tests in (b)(iv)(B) of this subsection; or materials that are determined by the department to be nonbiodegradable through WAC 173-303-910.

(A) Nonbiodegradable sorbents.

(I) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or

(II) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(III) Mixtures of these nonbiodegradable materials.

(B) Tests for nonbiodegradable sorbents.

(I) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-96 (2002) - Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

(II) The sorbent material is determined to be nonbiodegradable under OECD (Organization for Economic Cooperation and Development) test 301B: [CO₂ Evolution (Modified Sturm Test)].

(v) The placement of any liquid which is not a dangerous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the department, or the department determines, that:

(A) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(B) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in WAC 173-303-040).

(c) Disposal of solid acid waste. No person may land dispose solid acid waste, except as provided in subsection (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(d) Disposal of organic/carbonaceous waste.

(i) No person may land dispose organic/carbonaceous waste, except as provided in subsection (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter. Organic/carbonaceous wastes must be incinerated as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section.

(ii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to black mud generated from the caustic leach recovery of cryolite at primary aluminum smelting plants.

(iii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to any person who certifies to the department that recycling, treatment and incineration facilities are not available within a radius of one thousand miles from Washington state's borders. Such certification must be sent to the department by certified mail or other means that establish proof of receipt (including applicable electronic means) and must include: The name, address and telephone number of the person certifying; a brief description of the organic/carbonaceous waste covered by the certification; a discussion of the efforts undertaken to identify available recycling, treatment and incineration facilities; and the signature of the person responsible for the certification and development of information used to support the certification. Records and information supporting the certification must be

retained by the certifying person and must be made available to the department upon request.

A certification that has been properly submitted to the department will remain valid until the department determines that a recycling, treatment or incineration facility is available within a radius of one thousand miles from Washington state's borders and the person who submitted the certification is unable to demonstrate otherwise. A recycling, treatment or incineration facility will be considered by the department to be available if such facility: Is operating, and; can safely and legally recycle, treat or incinerate the organic/carbonaceous waste, and; has sufficient capacity to receive and handle significant amounts of the waste, and; agrees to accept the waste.

(5) Treatment in land disposal facilities. The land disposal restrictions in subsection (4) of this section do not apply to persons treating dangerous wastes in surface impoundments, waste piles, or land treatment facilities provided that such treatment is performed in accordance with the requirements of this subsection and this chapter.

(a) Surface impoundment treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in surface impoundments for purposes of treatment provided the owner/operator can demonstrate that effective treatment of the dangerous waste constituents will occur and at closure the owner/operator complies with the prohibitions and restrictions of subsection (4) of this section.

(b) Waste pile treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in waste piles for purposes of treatment provided the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur and that at closure the owner/operator will be in compliance with the prohibitions and restrictions of subsection (4) of this section.

(c) Land treatment.

Liquid waste, extremely hazardous waste (EHW), and organic/carbonaceous waste may be land treated provided that the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur, and at the end of the post-closure care period the owner/operator will be in compliance with subsection (4) of this section.

(6) Case-by-case exemptions to a land disposal prohibition. Any person may petition the department for an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste. The procedures to submit a petition to the department are specified in WAC 173-303-910(6). The department may deny any petition if it determines that there is a potential for dangerous waste constituents to migrate from the land disposal facility where the waste is to be placed. The department will deny any petition when exemption would result in a substantial or imminent threat to public health or the environment. The department will deny any petition when exemption would result in a violation of applicable state laws.

The department may grant an exemption from the prohibitions and restrictions of subsection (4) of this section based on the demonstrations specified in (a), (b) or (c) of this subsection.

(a) Land disposal exemption for treatment residuals. Any person may request an exemption from a land disposal prohibition in subsection (4) of this section for treatment residuals by demonstrating to the department that:

(i) The person has applied the best achievable management method to the original waste; and

(ii) Application of additional management methods to the treatment residuals would prevent the person from utilizing the best achievable management methods for the original dangerous waste; and

(iii) The land disposal of the treatment residuals does not pose a greater risk to the public health and the environment than land disposal of the original dangerous waste would pose.

(b) Economic hardship exemption. Any person may request an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste by demonstrating to the department that alternative management of the dangerous waste will impose an unreasonable economic burden in relation to the threat of harm to public health and the environment. It will be solely within the discretion of the department to approve or deny the requests for exemptions based on economic hardship.

(c) Organic/carbonaceous waste exemption. Any person may request an exemption from the requirements in subsection (4) of this section by demonstrating to the department that:

(i) Alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization or landfilling; or

(ii)(A) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or contains greater than sixty-five percent water or other noncombustible moisture; and

(B) Incineration is the only management method available within a radius of one thousand miles from Washington state's border (i.e., recycling or treatment are not available).

(7) Emergency cleanup provision. The department may, on a case-by-case basis, grant an exception to the land disposal restrictions in subsection (4) of this section for an emergency cleanup where an imminent threat to public health and the environment exists. Any exception will require compliance with applicable state law and will require (consistent with the nature of the emergency and imminent threat) application of the waste management priorities of RCW 70.105.-150.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 95-22-008, filed 10/19/95, effective 11/19/95)

WAC 173-303-141 Treatment, storage, or disposal of dangerous waste. (1) A person may offer, transport, transfer, or deliver a designated dangerous waste only to a TSD facility which is operating either: Under a permit issued pursuant to the requirements of this chapter; or, if the TSD facility is located outside of this state, under interim status or a permit issued by United States EPA under 40 C.F.R. Part 270, or under interim status or a permit issued by another state which

has been authorized by United States EPA pursuant to 40 C.F.R. Part 271.

(2) A person may offer a state only designated dangerous waste (not regulated as a hazardous waste by EPA) to a facility which is located outside of this state and which does not meet the requirements of subsection (1) of this section if:

(a) The facility receiving the waste will legitimately treat or recycle the dangerous waste (disposal is an unacceptable management practice);

(b) The generator has on file a letter or copy of a letter signed by the regulatory authority in the receiving state that the receiving facility may accept the waste;

(c) The generator uses a transporter with a valid EPA/state identification number;

(d) The generator complies with all other applicable requirements, including manifesting, packaging and labeling, with respect to the shipping of the waste (~~However, the EPA/state identification number for the receiving facility is not required on the manifest or annual report~~); and

(e) The generator receives from the receiving facility a signed and dated copy of the manifest.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-160 Containers. (1) Waste quantity. Containers and inner liners will not be considered as a part of the waste when measuring or calculating the quantity of a dangerous waste. Only the weight of the residues in non-empty or nonrinsed containers or inner liners will be considered when determining waste quantities.

(2) A container or inner liner is "empty" when:

(a) All wastes in it have been taken out that can be removed using practices commonly employed to remove materials from that type of container or inner liner (for example, pouring, pumping, aspirating, etc.) and:

(i) No more than one inch of waste remains at the bottom of the container or inner liner; or

(ii) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or

(iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

A container that held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure; and

(b) If the container or inner liner held acutely hazardous waste, as defined in WAC 173-303-040, toxic EHW as defined in WAC 173-303-100 or pesticides bearing the danger or warning label, the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing must be ten percent or more of the container's or inner liner's capacity or of sufficient quantity to thoroughly decontaminate the container. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids (for example, fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times (for example, on the

ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department. A container or inner liner is also considered "empty" if the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal.

Any rinsate or vacuumed residue that results from the cleaning of containers or inner liners must, whenever possible, be reused in a manner consistent with the original intended purpose of the substance in the container or inner liner. In the case of a farmer, if the rinsate is a pesticide residue then the rinsate must be managed or reused in a manner consistent with the application instructions on the pesticide label. On-site disposal or burial of pesticide residues is prohibited. Otherwise, the rinsate must be checked against the designation requirements (WAC 173-303-070 through 173-303-100) and, if designated, managed according to the requirements of this chapter.

(c) In the case of a container, the inner liner, that prevented the container from contact with the commercial chemical product or manufacturing chemical, has been removed.

(3)(a) Any residues remaining in containers or inner liners that are "empty" as described in subsection (2) of this section will not be subject to the requirements of this chapter, and will not be considered as accumulated wastes for the purposes of calculating waste quantities.

(b) Any dangerous waste in either: A container that is not empty, or an inner liner removed from a container that is not empty (as defined in subsection (2) of this section) is subject to the requirements of this chapter.

(4) A person who cannot meet the provisions in (2)(b) of this section may petition the department to approve alternative container rinsing processes in accordance with WAC 173-303-910(1).

(5) Containers of dangerous waste pharmaceuticals are subject to WAC 173-303-555(8) for determining when they are considered empty, in lieu of this section, except as provided by WAC 173-303-555 (8)(c) and (d).

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-169 Quantity exclusion limits—Generator category determinations. A generator must determine its generator category. A generator's category is based on the amount of dangerous waste generated each month and may change from month to month. This section sets forth procedures to determine whether a generator is a small quantity generator, a medium quantity generator, or a large quantity generator for a particular month, as defined in WAC 173-303-040.

(1) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL is the quantity of dangerous waste generated in a calendar month used to distinguish when a dangerous waste is only

subject to the small quantity generator provisions, the medium quantity generator provisions, or when a dangerous waste is subject to the large quantity generator provisions. Any solid waste (which is not excluded or exempted) that is listed, exhibits a characteristic, or meets the criteria of this chapter is a dangerous waste.

(2) Aggregated waste quantities.

(a) A person may be generating more than one kind of dangerous waste. In such cases, they must consider the aggregate quantity of their wastes when determining whether or not their waste amounts exceed the specific quantity exclusion limits (QEL) for waste generation;

(b) Waste quantities must be aggregated for all waste with common QELs. Example: If a person generates 100 pounds of an ignitable waste and 130 pounds of a persistent waste, then both wastes are regulated because the aggregate waste quantity (230 pounds) exceeds the common QEL of 220 pounds. On the other hand, if a person generates one pound of toxic EHW and 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QELs).

(3) Generator category determination.

(a) Determine separately the resulting generator categories for the quantities of waste with a 2.2 pound QEL and for the quantities of waste with a 220 pound QEL using Table 1 of this section; and

(b) Compare the resulting generator categories from (a) of this subsection and apply the more stringent generator category to the accumulation and management of dangerous waste with a 2.2 pound QEL and with a 220 pound QEL.

Table 1
Generator Categories Based on Quantity of Waste Generated in a Calendar Month

Quantity of dangerous waste with a QEL of 2.2 pounds generated in a calendar month	Quantity of dangerous waste with a QEL of 220 pounds generated in a calendar month	Quantity of residue or contaminated soil, water or other debris from a cleanup of a spill, into or on any land or water of any dangerous waste with a QEL of 2.2 pounds generated in a calendar month	Generator category
> 2.2 pounds	Any amount	Any amount	Large quantity generator.
Any amount	≥ 2,200 pounds	Any amount	Large quantity generator.
Any amount	Any amount	> 220 pounds	Large quantity generator.
≤ 2.2 pounds	> 220 pounds and < 2,200 pounds	≤ 220 pounds	Medium quantity generator.
≤ 2.2 pounds	≤ 220 pounds	≤ 220 pounds	Small quantity generator.

(4) When making the quantity determinations of this subsection and WAC 173-303-170 through 173-303-230, generators must include all dangerous wastes they generate, except dangerous waste that:

(a) Is exempt from regulation under WAC 173-303-071; or

(b) Is recycled under WAC 173-303-120 (2)(a), (3)(c)((e);) and (h), or (5); or

(c) Is managed in accordance with WAC 173-303-802 (5) immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in WAC 173-303-040; or

(d) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under WAC 173-303-120 (4)(a); or

(e) Is spent lead-acid batteries managed under the requirements of WAC 173-303-120 (3)(f) and 173-303-520; or

(f) Is universal waste managed under WAC 173-303-077 and 173-303-573; or

(g) Is a dangerous waste that is an unused commercial chemical product (listed in WAC 173-303-9903 or exhibits one or more characteristics or criteria listed in WAC 173-303-090 or 173-303-100) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to WAC 173-303-235(14). For purposes of this provision, the term eligible academic entity shall have the meaning as defined in WAC 173-303-235(1).

(h) (Reserved.)

(i) Is managed as part of an episodic event in compliance with the conditions of WAC 173-303-173.

(j) Is a dangerous waste pharmaceutical, as defined in WAC 173-303-555(1), that is managed in accordance with WAC 173-303-555 or is a dangerous waste pharmaceutical that is also a Drug Enforcement Administration controlled substance and managed under WAC 173-303-555(7). The total dangerous waste, including both dangerous waste pharmaceuticals and nonpharmaceutical dangerous waste, must be counted per WAC 173-303-170(10) for purposes of deter-

mining if a health care facility is subject to WAC 173-303-555.

(5) In determining the quantity of dangerous waste generated, a generator need not include:

(a) Dangerous waste when it is removed from on-site storage; or

(b) Spent materials that are generated, reclaimed, and subsequently reused on site, as long as such spent materials have been counted once (note: If after treatment or reclamation a residue is generated with a different waste code(s), that residue must be counted); or

(c) The container holding/containing the dangerous waste as described under WAC 173-303-160(1).

(6) Based on the generator category as determined under this section, the generator must meet the applicable independent requirements listed in WAC 173-303-170. A generator's category also determines which of the provisions of WAC 173-303-171, 173-303-172, 173-303-174 or 173-303-200 must be met to obtain an exemption from the storage facility permit, interim status, and operating requirements when accumulating dangerous waste.

(a) In a calendar month, if a small quantity generator generates more than the amounts specified in the definition of "small quantity generator" in WAC 173-303-040, the generator becomes subject to full requirements of a medium quantity generator or large quantity generator of this chapter, respectively, and cannot again be a small quantity generator until after all dangerous waste on site at the time they became fully regulated have been properly treated or disposed at a designated facility.

Example. If a person generates 4 pounds of an acute hazardous waste discarded chemical product (QEL 2.2 pounds) and 200 pounds of an ignitable waste (QEL 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste. "Fully regulated" in this example means the regulations applicable to a large quantity generator.

(b) In a calendar month if a medium quantity generator generates more than the amounts specified in the definition of "medium quantity generator" in WAC 173-303-040 the gen-

erator becomes subject to full requirements of a large quantity generator of this chapter, and cannot again be a medium quantity generator until after all dangerous waste on site at the time they became fully regulated have been properly treated or disposed at a designated facility.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-170 Requirements for generators of dangerous waste. Any person who generates a solid waste must determine if their solid waste designates as DW or EHW by the requirements of WAC 173-303-070 through 173-303-100. A person is a dangerous waste generator if their solid waste is designated as such.

(1) The following definitions apply to this section:

(a) "Condition for exemption" means any requirement in WAC 173-303-171 through 173-303-174, 173-303-200 through 173-303-201, 173-303-235 and also in WAC 173-303-160 (2)(b) in reference to farmers, that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in WAC 173-303-400, 173-303-600, 173-303-800 and from any requirement for notification under WAC 173-303-060.

(b) "Independent requirement" means a requirement of WAC 173-303-170(2) that states an event, action, or standard that must occur or be met, and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption.

(2) The regulations in this section establish standards for generators of dangerous waste.

(a) A person who generates a dangerous waste is subject to all the applicable independent requirements in the sections and subsections listed below:

(i) Independent requirements of a small quantity generator:

(A) Designate their waste in accordance with WAC 173-303-070;

(B) Determine generator category in accordance with WAC 173-303-169;

(C) Manage their waste in a way that does not pose a potential threat to human health or the environment; and

(D) Submit an annual report in accordance with WAC 173-303-220 if they have obtained an EPA/state identification number pursuant to WAC 173-303-060; and

(E) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also subject to WAC 173-303-510 if it is destined to be burned for energy recovery; and

(F) If a small quantity generator's used oil is to be recycled by being burned for energy recovery or rerefined, the used oil is subject to WAC 173-303-515.

(ii) Independent requirements of a medium quantity generator:

(A) WAC 173-303-070 Designation of dangerous waste. The generator is responsible for designating their waste as DW or EHW;

(B) WAC 173-303-169 Quantity exclusion limits—Generator category determinations. The generator is responsible for determining their generator category;

(C) WAC 173-303-060 Notification, identification numbers, and annual reports. A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060;

(D) WAC 173-303-140. The generator must comply with all applicable land disposal restrictions for dangerous wastes in WAC 173-303-140;

(E) WAC 173-303-180 Manifest;

(F) WAC 173-303-190 Preparing dangerous waste for transport;

(G) WAC 173-303-210 Generator recordkeeping;

(H) WAC 173-303-220 Generator reporting;

(I) WAC 173-303-230 Special conditions.

(iii) Independent requirements of a large quantity generator:

(A) WAC 173-303-070 Designation of dangerous waste. The generator is responsible for designating their waste as DW or EHW;

(B) WAC 173-303-169 Quantity exclusion limits—Generator category determinations. The generator is responsible for determining their generator category;

(C) WAC 173-303-060 Notification, identification numbers, and annual reports. A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060;

(D) WAC 173-303-140. The generator must comply with all applicable land disposal restrictions for dangerous wastes in this section;

(E) WAC 173-303-180 Manifest;

(F) WAC 173-303-190 Preparing dangerous waste for transport;

(G) WAC 173-303-210 Generator recordkeeping;

(H) WAC 173-303-220 Generator reporting;

(I) WAC 173-303-230 Special conditions.

(b) A generator that accumulates dangerous waste on site is a person that stores dangerous waste. Any generator who stores, treats, or disposes of dangerous waste on site must perform their operations in accordance with the TSD facility requirements (as specified by WAC 173-303-600) with the following exceptions:

(i) A small quantity generator that meets the conditions for exemption in WAC 173-303-171; or

(ii) A medium quantity generator that meets the conditions of exemption in WAC 173-303-172 and 173-303-174; or

(iii) A large quantity generator that meets the conditions for exemption in WAC 173-303-174, 173-303-200, and 173-303-201.

(iv) In addition to complying with the requirements of (b)(ii) of this subsection for medium quantity generators, and (b)(iii) of this subsection for large quantity generators, generators that treat their dangerous waste on site in accumulation tanks, containers and containment buildings must:

(A) Not treat dangerous waste on drip pads; and

(B) Maintain a treatment log showing dates and amounts of waste treated; and

(C) Comply with 173-303-283(3).

(v) A generator who treats special waste on site provided:

(A) The accumulation standards of WAC 173-303-073 (2)(a) and (b) are met;

(B) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

(I) A release of waste and waste constituents to the environment;

(II) Endangerment of health of employees or the public;

(III) Excessive noise; and

(IV) Negative aesthetic impact on the use of adjacent property.

(C) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

(c) A generator shall not transport, offer its dangerous waste for transport, or otherwise cause its dangerous waste to be sent to a facility that is not a designated facility, as defined in WAC 173-303-040, or not otherwise authorized to receive the generator's dangerous waste.

(3) Determining generator category. A generator must use WAC 173-303-169 to determine which provisions of this section are applicable to the generator based on the quantity of dangerous waste generated per month.

(4) Any person who exports or imports dangerous waste must comply with WAC 173-303-060 and 173-303-230.

(5) Violations of independent requirements or conditions for exemption:

(a) Independent requirement violations. A generator's violation of an independent requirement is subject to penalty ~~((and injunctive relief))~~ under this chapter 173-303 WAC and RCW 70.105.080.

(b) Condition for exemption violations. A generator's noncompliance with a condition for exemption in this section is not subject to penalty ~~((or injunctive relief))~~ under the authority of this chapter 173-303 WAC or RCW 70.105.080 as a violation of a condition of exemption.

Noncompliance by any generator with an applicable condition for exemption from a storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in WAC 173-303-400, 173-303-600, 173-303-800, 173-303-500 through 173-303-578, 173-303-700, and the notification requirements of WAC 173-303-060. Without an exemption, any violations of such storage requirements are subject to penalty ~~((and injunctive relief))~~ under this chapter 173-303 WAC and RCW 70.105.080.

(6) Persons responding to an explosives or munitions emergency in accordance with WAC 173-303-400 (2)(c) (xiii)(A)(IV) or 173-303-600 (3)(p)(i)(D) or (3)(p)(iv), and WAC 173-303-800 (7)(c)(i)(D) or (7)(c)(i)(E) are not required to comply with the standards of WAC 173-303-170 through 173-303-230.

(7) Any person who exports or imports hazardous waste subject to the manifesting requirements of WAC 173-303-180, the universal waste management standards of WAC 173-303-573, or to the export requirements in the spent lead-acid battery management standards of WAC 173-303-520, or to or from another country for recovery or disposal must

comply with 40 C.F.R. 262 subpart H. 40 C.F.R. 262 subpart H is incorporated by reference at WAC 173-303-230(1).

(8) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of WAC 173-303-235 are not subject to (for purposes of this subsection, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in WAC 173-303-235(1)):

(a) The requirements of WAC 173-303-070(3) or the regulations in WAC 173-303-174 for large quantity generators and medium quantity generators, except as provided in WAC 173-303-235; and

(b) The conditions of WAC 173-303-171, for small quantity generators, except as provided in WAC 173-303-235.

(9) All reverse distributors (as defined in WAC 173-303-555(1)) are subject to WAC 173-303-555 for the management of dangerous waste pharmaceuticals in lieu of this section.

(10) Each health care facility (as defined in WAC 173-303-555(1)) must determine whether it is subject to WAC 173-303-555 for the management of dangerous waste pharmaceuticals, based on the total dangerous waste it generates per calendar month (including both dangerous waste pharmaceuticals and nonpharmaceutical dangerous waste). A health care facility that generates more than the following quantities of dangerous waste per calendar month is subject to WAC 173-303-555 for the management of dangerous waste pharmaceuticals in lieu of this section:

(a) 220 pounds (100 kg) of dangerous waste; or

(b) 2.2 pounds (1 kg) of either acute hazardous waste or WT01 extremely hazardous waste or any combination of the two; or

(c) 220 pounds (100 kg) of any residue or contaminated soil, water, or other debris, resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous waste and/or WT01 extremely hazardous waste.

(11) A health care facility (as defined in WAC 173-303-555(1)) that is a small quantity generator when counting all its dangerous waste generated per calendar month, including both dangerous waste pharmaceuticals and nonpharmaceutical dangerous waste, remains subject to subsection (2)(a)(i) of this section and WAC 173-303-171 and is not subject to WAC 173-303-555, except for WAC 173-303-555 (6) and (8) and the optional provisions of WAC 173-303-555(5).

(12) Law enforcement agencies managing dangerous waste have the option of complying with WAC 173-303-555 (7) and (10) with respect to only dangerous waste pharmaceuticals held in their custody. Law enforcement agencies remain subject to all applicable dangerous waste regulations with respect to the management of its other dangerous wastes.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-171 Conditions for exemption for a small quantity generator. (1) Provided that the small quantity generator meets all the conditions for exemption listed in this section, dangerous waste generated by the small quantity generator is not subject to regulation under this chapter

except for WAC 173-303-050, 173-303-070, 173-303-145, 173-303-169, 173-303-170, 173-303-171 and 173-303-960. The conditions for exemption are as follows:

(a) In a calendar month the small quantity generator generates less than or equal to the amounts specified in the definition of "small quantity generator" in WAC 173-303-040;

(b) The small quantity generator complies with WAC 173-303-070;

(c) The quantity accumulated or stored at any time does not exceed 2,200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(a)(iv) and 173-303-082 (2)(b) and for extremely hazardous waste WT01 clean-up debris, as defined in WAC 173-303-040 "small quantity generator," is 220 pounds);

(d) If a person accumulates or stores any dangerous wastes that exceed the accumulation limits set forth in (c) of this subsection, then all dangerous waste accumulated or stored by that person is subject to the requirements for the conditions for exemption for a large quantity generator in WAC 173-303-200.

(e) A small quantity generator that accumulates dangerous waste in amounts less than or equal to the limits in (c) of this subsection must either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the United States, is:

(i) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(ii) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 C.F.R. Part 271, or by EPA under 40 C.F.R. Part 270;

(iii) Permitted to manage moderate risk waste under chapter 173-350 WAC (Solid waste handling standards), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(iv) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;

(v) Permitted, licensed, or registered to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 C.F.R. Part 258 or chapter 173-351 WAC;

(vi) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 C.F.R. 257.5 through 257.30;

(vii) A publicly owned treatment works (POTW): Provided, that small quantity generator(s) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a);

(viii) For universal waste managed under WAC 173-303-573, a universal waste handler or destination facility subject to the requirements of WAC 173-303-573; or

(ix) A large quantity generator under the control of the same person as the small quantity generator, provided the following conditions are met:

(A) The small quantity generator and the large quantity generator are under the control of the same person as defined in WAC 173-303-040 of this chapter. Contractors, consultants, transporters, etc., who operate generator facilities on behalf of a different person as defined in WAC 173-303-040 of this chapter shall not be deemed to "control" such generators.

(B) The small quantity generator clearly labels or marks each container(s) and tank(s) of dangerous waste with the words "dangerous waste" or "hazardous waste." Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(C) The small quantity generator clearly labels or marks each container(s) and tank(s) of dangerous waste with an indication of the hazards of the contents (examples include, but not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel and employees; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

(x) A reverse distributor, (as defined in WAC 173-303-555(1)), if the dangerous waste pharmaceutical is a potentially creditable dangerous waste pharmaceutical generated by a health care facility (as defined in WAC 173-303-555(1)).

(xi) A health care facility, (as defined in WAC 173-303-555(1)), that meets the conditions in WAC 173-303-555 (3) (o) and (4)(b), as applicable, to accept noncreditable dangerous waste pharmaceuticals and potentially creditable dangerous waste pharmaceuticals from an off-site health care facility that is a small quantity generator.

(xii) For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of WAC 173-303-071 (3)(tt).

(2) The placement of bulk or noncontainerized liquid dangerous waste or dangerous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

(3) A small quantity generator experiencing an episodic event may generate and accumulate dangerous waste from the episodic event in accordance with WAC 173-303-173 in lieu of WAC 173-303-172 and 173-303-200.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-172 Conditions for exemption for a medium quantity generator that accumulates dangerous waste. A medium quantity generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on site without a permit, interim status,

and without complying with the requirements of WAC 173-303-600 provided that all the following conditions for exemption listed in this section are met. The special provisions of this section do not apply to acutely hazardous wastes or toxic EHW (WT01) that exceed the QEL that are being generated or accumulated by the generator.

(1) Off-site shipments. All dangerous waste is shipped off site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on site in one hundred eighty days or less. A generator who accumulates dangerous waste for more than one hundred eighty days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless the generator has been granted an extension to the one hundred eighty-day period by the department as described in subsection (3) of this section.

(2) Generation. The generator generates in a calendar month no more than the amounts specified in the definition of "medium quantity generator" in WAC 173-303-040.

(3) Accumulation time limit. The generator accumulates dangerous waste on site for no more than one hundred eighty days unless the department has granted a maximum ninety-day extension to this one hundred eighty-day period. The department may, on a case-by-case basis, grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport its waste, or offer its waste for transportation, over a distance of two hundred miles or more for off-site treatment, storage, or disposal and the dangerous wastes must remain on site due to unforeseen, temporary, and uncontrollable circumstances. For the purposes of this section, the one hundred eighty-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or

(b) The generator exceeds its satellite accumulation limits prescribed in WAC 173-303-174(1).

(4) Accumulation limit. The quantity of dangerous waste accumulated on site never exceeds the following limits at any one time:

(a) ~~((2,200))~~ 6,600 Pounds of dangerous waste; or

(b) 2.2 Pounds of acutely hazardous waste or toxic EHW (WT01); ~~((and))~~ or

(c) 220 Pounds of residues from a cleanup of acutely hazardous waste and/or toxic EHW (WT01).

(5) Accumulation of waste in containers.

(a) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe corroding or rusting or flaking or scaling, and/or apparent structural defects) or if it begins to leak or is leaking, the generator must transfer the dangerous waste to a container that is in good condition and does not leak, and continue to manage that container and waste in compliance with the conditions for exemption of this section. In addition, the ~~((owner or operator))~~ generator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and ~~((173-303-960))~~ 173-303-360.

(b) Compatibility of waste with container. The generator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the

dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(c) Management of containers.

(i) A container holding dangerous waste must be closed at all times, except when it is necessary to add or remove waste.

(ii) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(iii) A minimum thirty-inch aisle space separation is required between rows of containers. A row of containers must be no more than two wide and allow for unobstructed inspection of each container.

(d) Inspections. The generator must conduct "weekly inspections," as defined in WAC 173-303-040, of each central accumulation area looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The generator must keep a written or electronic inspection log including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection. The generator must take remedial action in accordance with (a) of this subsection if deterioration or leaks are detected.

(e) Secondary containment. For container accumulation the department requires that the central accumulation area(s) include secondary containment in accordance with WAC 173-303-630(7).

(f) Special requirements for ignitable or reactive waste.

(i) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the separation distances for storage of explosives in the International Fire Code, 2015 edition, or the version adopted by the local fire district.

(ii) The generator must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet ~~((the requirements of))~~ (f)(i) of this subsection) container storage in a manner equivalent with the International Fire Code. Where no specific standard or requirements are specified in the International Fire Code, or in existing state or local fire codes, applicable sections of NFPA 30 "Flammable and Combustible Liquids Code," must be used. The generator must also comply with the requirements of WAC 173-303-395 (1)(d).

(g) Special requirements for incompatible wastes.

(i) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(ii) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(iii) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other

device. Containment systems for incompatible wastes must be separate.

(h) Closure.

(i) At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil, containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

(ii) In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610 (2) and (5).

(6) Accumulation of dangerous waste in tanks.

(a) Operating requirements. Generators must comply with the following general operating requirements:

(i) Treatment or storage of dangerous waste in tanks must comply with WAC 173-303-395(1).

(ii) Dangerous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(iii) Uncovered tanks must be operated to ensure at least sixty centimeters (two feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top sixty centimeters (two feet) of the tank.

(iv) Where dangerous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or bypass system to a standby tank).

Note: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

(b) Inspections. Generators must inspect the following:

(i) Discharge control equipment (e.g., waste feed cutoff systems, bypass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

(ii) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(iii) The level of waste in the tank at least once each operating day to ensure compliance with (a)(iii) of this subsection;

(iv) "Weekly inspections" as defined in WAC 173-303-040, must be conducted on the construction materials of the tank to detect corrosion or leaking of fixtures or seams; and

(v) "Weekly inspections," as defined in WAC 173-303-040, must be conducted on the construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). The generator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(vi) A generator accumulating dangerous waste in tanks or tank systems that have full secondary containment and that

either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must conduct "weekly inspections" as defined in WAC 173-303-040, where applicable, the areas identified in (b)(i) through (v) of this subsection. Use of the alternate inspection schedule must be documented in the generator's operating record. This documentation must include a description of the established workplace practices at the generator.

(c) Closure.

(i) Generators accumulating dangerous waste in tanks must, upon closure of the facility, remove all dangerous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the generator can demonstrate, in accordance with WAC 173-303-070 (2)(a) or (b), that any solid waste removed from the tank is not a dangerous waste, then it must manage such waste in accordance with all applicable provisions of this chapter.

(ii) In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610 (2) and (5).

(d) Special conditions for ignitable or reactive waste. Generators must comply with the following special requirements for ignitable or reactive waste:

(i) Ignitable or reactive waste must not be placed in a tank, unless:

(A) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that:

(I) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) or (7); and

(II) WAC 173-303-395(1) is complied with.

(B) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(C) The tank is used solely for emergencies.

(ii) A generator who treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in NFPA 30, "Flammable and Combustible Liquids Code."

(e) Special requirements for incompatible waste. Generators must comply with the following special requirements for incompatible wastes:

(i) Incompatible wastes, or incompatible wastes and materials, (see 40 C.F.R. Part 265, Appendix V for examples) must not be placed in the same tank, unless WAC 173-303-395(1) is complied with.

(ii) Dangerous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless WAC 173-303-395(1) is complied with.

(7) Accumulation of (~~dangerous~~) hazardous waste on drip pads. If the waste is placed on drip pads, the generator must comply with the following:

(a) WAC 173-303-675;

(b) Remove all wastes from the drip pad and associated collection system at least once every ninety days;

(c) Waste removed from drips pads and associated collection systems must be sent immediately to:

(i) An off-site designated facility; or

- (ii) An on-site permitted facility; or
- (iii) An on-site central accumulation area where the waste is managed in compliance with the on-site central accumulation area regulations in this section for the remainder of the one hundred eighty day accumulation time limit for medium quantity generators. (Example: A generator removes waste from the drip pad at eighty days, the generator is then allowed to further accumulate that waste in its central accumulation area for up to an additional one hundred days);
- (d) Maintain the following records on site and readily available for inspection:
 - (i) The original start date the waste was first placed on, or began to accumulate on, the drip pad;
 - (ii) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every ninety days; and
 - (iii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.
- (8) Accumulation of (~~dangerous~~) hazardous waste in containment buildings. If the waste is placed in containment buildings, the generator must comply with the following:
 - (a) 40 C.F.R. Part 265, Subpart DD, which is incorporated by reference; and
 - (b) Labeling.
 - (i) The generator must label its containment building with the words "Dangerous Waste" or "Hazardous Waste" in a conspicuous place easily visible and legible to employees, visitors, emergency responders, waste handlers, or other persons on site. The label must be visible and legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and
 - (ii) The generator must also, in a conspicuous place easily visible and legible to employees, visitors, emergency responders, waste handlers, or other persons on site, provide its containment building with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The indication must be:
 - (A) Legible and/or recognizable from a distance of twenty-five feet or the lettering is a minimum of one-half inch in height; and
 - (B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents.
 - (c) Records. The generator must also maintain the following records at the facility:
 - (i) The independent qualified registered professional engineer certification that the building complies with the design standards specified in 40 C.F.R. 265.1101. This certification must be placed in the generator's files no later than sixty days after the date of initial operation of the unit. Where subpart G and H are referenced in 40 C.F.R. 265.1102, replace them with WAC 173-303-610 and 173-303-620.
 - (ii) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are

consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(ii) Documentation that the unit is emptied at least once every ninety days.

(iv) Inventory logs or records with the above information must be maintained on site and readily available for inspection.

(9) Labeling and marking of containers and tanks in central accumulation areas.

(a) A generator must clearly mark or label (~~its~~) their containers as follows:

(i) With the date upon which each period of accumulation begins (~~its~~) marked and clearly visible for inspection (~~on each container~~).

(ii) With the words "Dangerous Waste" or "Hazardous Waste." Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(iii) With an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum one-half inch in height; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

(iv) Affix labels upon transfer of dangerous wastes from one container to another. The generator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility.

(v) Ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection as required under subsection (5)(d) of this section.

(b) Generators accumulating dangerous waste in tanks must do the following:

(i) Clearly mark or label its tanks with the words "Dangerous Waste" or "Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in size.

(ii) Clearly mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in size; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazard associated with the contents of the tanks

for the public, emergency response personnel, and employees.

(iii) Use inventory logs, monitoring equipment, or other records to demonstrate that dangerous waste has been emptied within one hundred eighty days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of dangerous waste entering the tank daily exit the tank within one hundred eighty days of first entering.

(iv) Keep inventory logs or records with the above information on site and readily available for inspection.

(c) The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger - unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more.

(10) Land disposal restrictions. The generator complies with all the applicable requirements under 40 C.F.R. Part 268.

(11) Preparedness and prevention.

(a) Maintenance and operation of facility. The generator must design, construct, maintain, and operate its facility to minimize the possibility of fire, explosion, or any unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, surface, or groundwater which could threaten public health or the environment. This subsection describes preparations and preventive measures which help avoid or mitigate such situations.

(b) Required equipment. All areas where dangerous waste is either generated or accumulated must be equipped with the following items in (b)(i) through (iv) of this subsection, unless it can be demonstrated to the department that none of the hazards posed by the waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below. A medium quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies:

(i) An internal communications or alarm system capable of providing immediate emergency instructions (voice or signal) instruction to facility personnel;

(ii) A device, such as a telephone (immediately available at the scene of operation) or a hand-held, two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(iii) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as those using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(iv) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

(c) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(d) Access to communications or alarms. Personnel must have immediate access to the signaling devices described in the situations below:

(i) Whenever dangerous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in (b) of this subsection;

(ii) If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone or a hand-held, two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (11)(b) of this section.

(e) Aisle space. The generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the department that aisle space is not needed for any of these purposes.

(f) Arrangements with local authorities.

(i) The generator must attempt to make the following arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals, as appropriate for the type and quantity of waste handled at its facility and the potential need for the services of these organizations, unless the hazards posed by wastes handled at the facility would not require these arrangements:

(A) The generator attempting to make arrangements with its local fire department must determine the potential need for the service of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals;

(B) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of dangerous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to, and roads inside the facility and possible evacuation routes;

(C) Arrangements to familiarize local hospitals with the properties of dangerous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility;

(D) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

(E) Where more than one party might respond to an emergency, agreements designating primary emergency authority and agreements with any others to provide support to the primary emergency authority.

(ii) The generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

(iii) A facility possessing twenty-four-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code with the facility's locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the generator's operating record.

(12) Emergency procedures and training. The generator must comply with the following conditions for those areas of the generator's facility where dangerous waste is generated and accumulated:

(a) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in (d) of this subsection. This employee is the emergency coordinator.

(b) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.) or in each area directly involved in the generation and accumulation of dangerous waste:

(i) The name and telephone number of the emergency coordinator;

(ii) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(iii) The telephone number of the fire department, unless the facility has a direct alarm.

(c) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

(d) The emergency coordinator or their designee must respond to any emergencies that arise. The applicable responses are as follows:

(i) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(ii) In the event of a spill, contain the flow of dangerous waste to the extent possible, and as soon as is practical, clean up the dangerous waste and any contaminated materials or soil;

(iii) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached waters of the state, the generator must immediately notify the department and the National Response Center (using their twenty-four-hour toll free number 1-800-424-8802). The report must include the following information:

(A) The name, address, and EPA/state identification number of the generator;

(B) Date, time, and type of incident (e.g., spill or fire);

(C) Quantity and type of dangerous waste involved in the incident;

(D) Extent of injuries, if any; and

(E) Estimated quantity and disposition of recovered materials, if any.

(13) General inspections.

(a) The generator must inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous

waste constituents to the environment, or a threat to human health. ((#)) The generator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b) The generator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

(i) The schedule must be kept at the facility;

(ii) The schedule must identify the types of problems to look for during inspections;

(iii) The generator must keep a written or electronic inspection log or summary, including at least the date and time of the inspection, the printed name and handwritten or electronic signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least five years from the date of inspection.

(c) The generator must remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(14) Rejected load. A generator who sends a shipment of dangerous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of WAC 173-303-370(5) may accumulate the returned load on site in accordance with all of the conditions for exemption, except for subsection (15) of this section. Upon receipt of the returned shipment, the generator must sign:

(a) Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(b) Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(15) Episodic event. A generator experiencing an episodic event may accumulate dangerous waste generated from the episodic event in accordance with WAC 173-303-173 in lieu of this section.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-173 Alternative standards for episodic generation. (1) Applicability. This section is applicable to small quantity generators and medium quantity generators as defined in WAC 173-303-040.

(2) Definitions for this section. The following definitions apply to this section:

(a) **Episodic event** means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of dangerous wastes that exceeds the calendar month quantity exclusion limits for the generator's usual category.

(b) **Planned episodic event** means an episodic event that the generator planned and prepared for, including tank clea-

nouts, short-term project, and removal of excess chemical inventory.

(c) **Unplanned episodic event** means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spill, or "acts of nature," such as a tornado, hurricane, earthquake, or flood.

(3) Conditions for a small quantity generator. A small quantity generator may maintain its existing generator category for dangerous waste generated during an episodic event provided that the generator complies with all the following conditions:

(a) Number of events. The small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under subsection (5) of this section.

(b) Notification. The small quantity generator must notify the Department's Hazardous Waste & Toxics Reduction Program (~~(Program's applicable regional office no later than))~~ Program at least thirty calendar days prior to initiating a planned episodic event using and completing a Washington State Dangerous Waste Site Identification Form, according to the directions on that form.

Note: Ecology recommends that sites notify a minimum of sixty days prior to the planned event proposed start date. Additionally, incomplete or incorrect application forms that do not comply with form directions will be returned.

In the event of an unplanned episodic event, the generator must notify the Department's Hazardous Waste & Toxics Reduction Program's appropriate regional office within seventy-two hours of the unplanned event via email or fax and subsequently submit to the department within thirty days of the notification a completed Washington State Dangerous Waste Site Identification Form, according to the directions on that form. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of dangerous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with twenty-four-hour telephone access to discuss the notification submittal or respond to any emergency in compliance with WAC 173-303-172 (12)(a) and 173-303-145(3).

(c) EPA/state identification number. The small quantity generator must have an EPA/state identification number or obtain an identification number using and completing a Washington State Dangerous Waste Site Identification Form.

(d) Annual report. The small quantity generator must submit an annual report in accordance with WAC 173-303-220 covering all dangerous waste generated during the episodic event.

(e) Pollution prevention. Dangerous waste generated from an episodic event is subject to pollution prevention planning and fees as required in chapters 173-307 and 173-305 WAC, respectively.

(f) Accumulation. A small quantity generator is prohibited from accumulating dangerous waste generated from an episodic event on drip pads and in containment buildings. The accumulating of dangerous waste generated from an episodic event shall only occur in containers or tanks and the generator comply with the following:

(i) Containers. The small quantity generator accumulating in containers must mark or label its containers as follows:

(A) With the date upon which the episodic event began, clearly visible for inspection on each container.

(B) With the words "Episodic Dangerous Waste" or "Episodic Hazardous Waste." Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(C) With an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic). The indication label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

(ii) Tanks. The small quantity generator accumulating episodic dangerous waste in tanks must do the following:

(A) Clearly mark or label the tanks with the words "Episodic Dangerous Waste" or "Episodic Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(B) Clearly mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic). The indication label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazard associated with the contents of the tank for the public, emergency response personnel, and employees.

(C) Use inventory logs, monitoring equipment or other records to identify the date upon which each episodic event begins.

(D) Keep inventory logs or records with the above information on site and readily available for inspection upon request.

(iii) Dangerous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of dangerous waste or hazardous substance or dangerous waste constituent to the air and environment.

(iv) Containers must be in good condition and compatible with the dangerous waste being accumulated therein.

(v) Containers must be kept closed except to add or remove waste.

(vi) Tanks must be in good condition and compatible with the dangerous waste accumulated therein.

(vii) Tanks must have procedures in place to prevent the overflow (e.g., be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system

to a standby tank when dangerous waste is continuously fed into the tank).

(viii) Inspections. Tanks must be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tank is operated according to its design by reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

(g) Manifest. The small quantity generator must comply with the hazardous waste manifest provision of WAC 173-303-180 when it sends its dangerous waste generated from the episodic event off site to a designated facility as defined in WAC 173-303-040.

(h) Treatment. The small quantity generator is prohibited from treating dangerous waste generated from an episodic event.

(i) Off-site shipments. The small quantity generator has up to sixty calendar days from the start of the episodic event to manifest and send its dangerous waste generated from the episodic event to a designated facility as defined in WAC 173-303-040.

(j) Recordkeeping. Small quantity generators must maintain the following records for five years from the end date of the episodic event:

- (i) Beginning and end dates of the episodic event;
- (ii) A description of the episodic event;
- (iii) A description of the types and quantities of dangerous wastes generated during the event;
- (iv) A description of how the dangerous waste was managed as well as the name of the designated facility, as defined in WAC 173-303-040, that received the dangerous waste;
- (v) Name(s) of dangerous waste transporters; and
- (vi) An approval letter from the department if the generator petitioned to conduct one additional episodic event per calendar year.

(4) Conditions for medium quantity generators. A medium quantity generator may maintain its existing generator category for dangerous waste generated during an episodic event provided that the generator complies with all the following conditions:

(a) Number of events. The medium quantity generator is limited to one episodic event per calendar year, unless a petition is granted under subsection (5) of this section.

(b) Notification. The medium quantity generator must notify the Department's Hazardous Waste & Toxics Reduction Program (~~Program's applicable regional office no later than~~) Program at least thirty calendar days prior to initiating a planned episodic event using and completing a Washington State Dangerous Waste Site Identification Form, according to the directions on that form.

Note: Ecology recommends that sites notify a minimum of sixty days prior to the planned event proposed start date. Additionally, incomplete or incorrect application forms that do not comply with form directions will be returned.

In the event of an unplanned episodic event, the generator must notify the Department's Hazardous Waste & Toxics Reduction Program's appropriate regional office within seventy-two hours of the unplanned event via email or fax and subsequently submit to the department within thirty days of

the notification a completed Washington State Dangerous Waste Site Identification Form, according to the directions on that form. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of dangerous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with twenty-four-hour telephone access to discuss the notification submittal or respond to any emergency in compliance with WAC 173-303-172 (12)(a) and 173-303-145(3).

(c) EPA/state identification number. The medium quantity generator must have an EPA/state identification number or obtain an identification number using and completing a Washington State Dangerous Waste Site Identification Form.

(d) Annual report. The medium quantity generator must submit an annual report in accordance with WAC 173-303-220 covering all dangerous waste generated during the calendar year of the episodic event.

(e) Pollution prevention. Dangerous waste generated from an episodic event is subject to pollution prevention planning and fees as required in chapters 173-307 and 173-305 WAC, respectively.

(f) Accumulation. A medium quantity generator is prohibited from accumulating dangerous waste generated from an episodic event on drip pads and in containment buildings. The accumulating of dangerous waste generated from an episodic event shall only occur in containers or tanks and the generator comply with the following:

(i) Containers. The medium quantity generator accumulating episodic dangerous waste in containers must meet the standards in WAC 173-303-172(5) and must mark or label its containers as follows:

(A) With the date upon which the episodic event began, clearly visible for inspection on each container.

(B) With the words "Episodic Dangerous Waste" or "Episodic Hazardous Waste(~~" where the label or marking is~~)". Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(C) With an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic). The indication label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

(ii) Tanks. The medium quantity generator accumulating episodic dangerous waste in tanks must meet the standards in WAC 173-303-172(6) and must do the following:

(A) Clearly mark or label its tanks with the words "Episodic Dangerous Waste" or "Episodic Hazardous Waste" where the label or marking is legible from a distance of

twenty-five feet or the lettering size is a minimum of one-half inch in height.

(B) Clearly mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic). The indication label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the tanks for the public, emergency response personnel, and employees.

(C) Use inventory logs, monitoring equipment or other records to identify the date upon which each period of accumulation begins and ends.

(D) Keep inventory logs or records with the above information on site and readily available for inspection upon request.

(g) The medium quantity generator must treat dangerous waste generated from an episodic event on site or manifest and ship such dangerous waste off site to a designated facility (as defined by WAC 173-303-040) within sixty calendar days from the start of the episodic event.

(h) Recordkeeping. The medium quantity generator must maintain the following records for five years from the end date of the episodic event:

- (i) Beginning and end dates of the episodic event;
- (ii) A description of the episodic event;
- (iii) A description of the types and quantities of dangerous wastes generated during the event;
- (iv) A description of how the dangerous waste was managed as well as the name of the designated facility, as defined in WAC 173-303-040, that received the dangerous waste;
- (v) Name(s) of dangerous waste transporters; and
- (vi) An approval letter from the department if the generator petitioned to conduct one additional episodic event per calendar year.

(5) Petition to manage one additional episodic event per calendar year.

(a) A generator may petition the department for a second episodic event in a calendar year without impacting its generator category under the following conditions:

(i) If a small quantity generator or a medium quantity generator has already held a planned episodic event in a calendar year, the generator may petition the department for an additional unplanned episodic event in that calendar year within seventy-two hours of the unplanned event.

(ii) If a small quantity generator or medium quantity generator has already held an unplanned episodic event in a calendar year, the generator may petition the department for an additional planned episodic event in that calendar year.

(b) The petition must include the following:

- (i) The reason(s) why an additional episodic event is needed and the nature of the episodic event;
- (ii) The estimated amount and type(s) of dangerous waste to be managed from the event;
- (iii) How the dangerous waste is to be managed;

(iv) The estimated length of time needed to complete management of the dangerous waste generated from the episodic event not to exceed sixty days; and

(v) Information regarding the previous episodic event managed by the generator, including the nature of the event, whether it was a planned or unplanned event, and how the generator complied with the conditions.

(c) The petition must be sent to the Department's Hazardous Waste & Toxics Reduction Program's appropriate regional office for review and approval.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-174 Satellite accumulation area regulations for medium quantity generators and large quantity generators. (1) A generator may accumulate as much as fifty-five gallons of dangerous waste or either one quart of liquid acutely hazardous waste or 2.2 lbs. of solid acutely hazardous waste (as defined in WAC 173-303-040) in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite accumulation area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. A generator may accumulate waste without a permit, or without complying with WAC 173-303-400, 173-303-600, 173-303-692, and 173-303-800, provided that all the conditions for exemption in this section are met. A generator may comply with the conditions for exemption in this section instead of complying with the conditions for exemption in WAC 173-303-172 and 173-303-200, except as required by (h) and (i) of this subsection. The conditions for exemption for satellite accumulation are:

(a) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe corroding or rusting or flaking or scaling, and/or apparent structural defects) or if it begins to leak, the generator must transfer the dangerous waste to a container that is in good condition and does not leak, or immediately transfer and manage the waste in a central accumulation area operated in compliance with WAC 173-303-172 or 173-303-200, as applicable. In addition, the (~~owner or operator~~) generator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 (~~and 173-303-360~~), 173-303-172, and 173-303-201.

(b) Compatibility of waste with containers. The generator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(c) Management of containers.

(i) A container holding dangerous waste must be closed at all times, except:

(A) When it is necessary to add or remove waste; or

(B) When temporary venting of a container is necessary, such as:

(I) For the proper operation of equipment; or

(II) To prevent dangerous situations, such as build-up of extreme pressure.

(ii) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(d) Special requirements for ~~((ignitable or))~~ reactive waste. Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi) through (viii) must be stored in a manner equivalent to the separation distances for storage of explosives in the International Fire Code, 2015 edition, or the version adopted by the local fire district.

(e) Special requirements for incompatible wastes.

(i) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(ii) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(iii) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(f) Container labeling or marking. A generator must clearly label or mark each container of dangerous waste with the following:

(i) The words "Dangerous Waste" or "Hazardous Waste." Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(ii) An indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

(g) Accumulation limits. When the accumulation limits listed in this subsection are met:

(i) The container(s) must be marked immediately with the accumulation start date; and

(ii) Moved within three consecutive calendar days to a permitted on-site designated storage area or an on-site central accumulation area or to a permitted off-site designated facility; and

(iii) During the three consecutive calendar day period the generator must continue to comply with all the conditions for exemption for satellite accumulation in this section.

(h) All satellite accumulation areas operated by medium quantity generators must meet the preparedness and preven-

tion regulations and the emergency procedures in WAC 173-303-172.

(i) All satellite accumulation areas operated by large quantity generators must meet the preparedness, prevention and contingency regulations and emergency procedures in WAC 173-303-201.

(2) On a case-by-case basis the department may require the satellite accumulation area to be managed in accordance with all or some of the requirements under WAC 173-303-172 or 173-303-200 and secondary containment requirements of WAC 173-303-630(7), if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-180 Manifest. A generator who transports, or offers for transport a dangerous waste for off-site treatment, storage, or disposal, or a treatment, storage, ~~((and))~~ or disposal facility ~~((who))~~ that offers for transport a rejected dangerous waste load, must follow all applicable procedures described in this section.

(1) Form and contents of dangerous waste manifests. 40 C.F.R. Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is incorporated by reference. The manifest must be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms ~~((, as described in the uniform manifest Appendix of 40 C.F.R. Part 262)).~~

(a) A generator must designate on the manifest one facility that is permitted to handle the waste described on the manifest.

(b) A generator may also designate on the manifest one alternate facility that is permitted to handle their waste in the event an emergency prevents delivery of the waste to a primary designated facility.

(c) If the transporter is unable to deliver the dangerous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

(2) The manifest must consist of enough copies to provide the generator, each transporter, and the designated facility owner/operator with a copy for their records, and another copy to be returned to the generator.

(3) Manifest procedures.

(a) The generator must:

(i) Sign and date the manifest certification by hand;

(ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator must give the remaining manifest copies to the transporter.

(c) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in

accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(d) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

- (i) The next nonrail transporter, if any; or
- (ii) The designated facility if transported solely by rail;

or

(iii) The last rail transporter to handle the waste in the United States if exported by rail.

(e) For shipments of federally regulated hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

(f) For rejected shipments of dangerous waste or container residues contained in nonempty containers that are returned to the generator by the designated facility (following the procedures of WAC 173-303-370 (5)(f)), the generator must:

(i) Sign either:

(A) Item 20 of the new manifest if a new manifest is used for the returned shipment; or

(B) Item 18c of the original manifest if the original manifest is used for the returned shipment.

(ii) Provide the transporter a copy of the manifest;

(iii) Within thirty days of delivery of the rejected shipment or container residues contained in nonempty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and

(iv) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

(4) Special requirements for shipments to the Washington EHW facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford must notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator must not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180 (4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety.

(5) The requirements of this section and WAC 173-303-190(2) do not apply to the transport of dangerous wastes on a public or private right of way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right of way: Provided, That ecology has approved an alternative paper tracking system that serves the purpose of a manifest. Notwithstanding WAC 173-303-240(2), the generator or transporter must comply with the requirements for

transporters set forth in WAC 173-303-270 and 173-303-145 in the event of a discharge of dangerous waste on a public or private right of way.

(6) Special instructions for state-only dangerous waste that designates only by the criteria under WAC 173-303-100 and is not regulated as a hazardous waste under 40 C.F.R. Part 261 or as a hazardous material under the 49 C.F.R. hazardous material regulations. For purposes of completing the uniform hazardous waste manifest, Item 9b, and Item 28 if continuation sheet 8700-22A is used, or to describe a state-only dangerous waste on a shipping paper, the shipping description must include the following in sequence with no additional information interspersed:

(a) Material Not Regulated by DOT;

(b) Washington State Dangerous Waste Only followed by the appropriate criteria designation of the waste that is either toxic, persistent, solid corrosive or a combination of these entered in parentheses;

(c) Shipping description examples: Material Not Regulated by DOT (Washington State Dangerous Waste Only, Toxic); Material Not Regulated by DOT (Washington State Dangerous Waste Only, Toxic, Persistent); Material Not Regulated by DOT (Washington State Dangerous Waste Only, Solid Corrosive).

(7) Manifest tracking numbers, manifest printing, and obtaining manifests.

(a) 40 C.F.R. 262.21 (a) through (f) and (h) through (m) is incorporated by reference. EPA requirements for printing manifests for use or distribution are included in this section.

(b) A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest under paragraphs (c) and (e) of 40 C.F.R. 262.21. A registered source may be a:

(i) State agency;

(ii) Commercial printer;

(iii) Dangerous waste generator, transporter or TSDF; or

(iv) Dangerous waste broker or other preparer who prepares or arranges shipments of dangerous waste for transportation.

(c) A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

(8) Waste minimization certification. A generator who initiates a shipment of dangerous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment"; or

(b) "I am a medium quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford." Note that a Washington state medium quantity generator regulated under WAC 173-303-172 is the type of generator referred to where the manifest states "(b) if I am a small quantity generator", due to the different term used by EPA.

(9) Use of electronic manifest. In lieu of using the manifest form specified in subsection (1) of this section, a person may prepare and use an electronic manifest, provided that the person:

(a) Complies with the requirements of 40 C.F.R. Part 3.10 for the reporting of electronic documents to EPA; and

(b) Complies with the requirements in subsections (10) and (11) of this section.

(10) Legal equivalence to paper manifests.

(a) Electronic manifests that are obtained, completed, and transmitted in accordance with subsection (9) of this section and used in accordance with this section are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this section to obtain, complete, sign, provide, use or retain a manifest.

(i) Any requirement in this section to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of subsection (11) of this section.

(ii) Any requirement in this section to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.

(iii) Any requirement in this section for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production upon request.

(iv) A generator may not be held liable for the inability to produce an electronic manifest for inspection under this section if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

(b) A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the dangerous waste shipment from the generator for off-site transportation.

(c)(i) Restriction on use of electronic manifests. A generator may prepare an electronic manifest for the tracking of dangerous waste shipments involving any dangerous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system, except that:

(ii) A generator may sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby

enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically.

(d) Requirement for one printed copy. To the extent the hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous material to supply a paper document for compliance with 49 C.F.R. Part 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest. In addition, the one printed copy of the electronic manifest must provide the information required in subsection (6) of this section for state-only dangerous waste that designates only by the criteria under WAC 173-303-100 and as state listed WPCB and WSC2.

(e) Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a dangerous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the dangerous waste from the generator, then the generator must obtain and complete a paper manifest (EPA form 8700-22) and if necessary, a continuation sheet (EPA form 8700-22A) in accordance with the manifest instructions and ((empty)) use these paper forms from this point forward in compliance with subsections (1) through (8) of this section from this point forward.

(f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a dangerous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of this signature method, then the generator shall also sign with an ink signature the generator/offeree certification on the printed copy of the manifest provided under (d) of this subsection.

(g) Imposition of user fee. A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees will be published by EPA as an appendix to 40 C.F.R. Part 262.

(h) Post-receipt manifest data corrections. After facilities have certified to the receipt of dangerous waste by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Generators may participate electronically in the post-receipt data corrections process by following the process described in WAC 173-303-370(10)(g), which applies to corrections made to either paper or electronic manifest records.

(11) Electronic manifest signatures. Electronic signature methods for the e-Manifest system shall:

(a) Be a legally valid and enforceable signature applicable under state, EPA and other federal requirements pertaining to electronic signatures; and

(b) Be a method that is designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-200 Conditions for exemption for a large quantity generator that accumulates dangerous waste. Large quantity generators, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on site without a permit or interim status, and without complying with the requirements of WAC 173-303-600 provided that all of the following conditions for exemption listed in this section are met.

(1) Off-site shipments. All dangerous waste is shipped off site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on site in ninety days or less. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless they have been granted an extension to the ninety-day period allowed pursuant to subsection (2) of this section;

(2) Accumulation time limit.

(a) The generator accumulates dangerous waste on site for no more than ninety days unless;

(i) The department has granted a maximum thirty-day extension to this ninety-day period. The department may, on a case-by-case basis, grant a maximum thirty-day extension to this ninety-day period if dangerous waste must remain on site due to unforeseen, temporary and uncontrollable circumstances; or

(ii) The F006 accumulation conditions for exemption in subsection (13) of this section are met.

(b) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(i) The generator first generates a dangerous waste; or

(ii) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the accumulation limit for such waste (or wastes); or

(iii) The generator exceeds its satellite accumulation limits prescribed in WAC 173-303-174(1).

(3) Accumulation of waste in containers.

(a) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe corroding or rusting or flaking or scaling, and/or apparent structural defects) or if it begins to leak or is leaking, the generator must transfer the dangerous waste from this container to a container that is in good condition and does not leak and continue to manage that container and waste in compliance with the conditions for exemption in this section. In addition, the ~~((owner or operator))~~ generator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and ~~((173-303-360))~~ 173-303-201(14).

(b) Compatibility of waste with container. The generator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the

dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(c) Management of containers.

(i) A container holding dangerous waste must be closed at all times, except when it is necessary to add or remove waste.

(ii) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(iii) A minimum thirty-inch aisle space separation is required between rows of containers. A row of containers must be no more than two wide and allow for unobstructed inspection of each container.

(d) Inspections. The generator must conduct "weekly inspections," as defined in WAC 173-303-040, of each central accumulation area looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The generator must keep a written or electronic inspection log including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection. See subsection ~~((5))~~ (3)(a) of this section for remedial action required if deterioration or leaks are detected.

(e) Secondary containment. For container accumulation the department requires that the central accumulation area(s) must include secondary containment in accordance with WAC 173-303-630(7).

(f) Special requirements for ignitable or reactive waste.

(i) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the separation distance for storage of explosives in the International Fire Code, 2015 edition, or the version adopted by the local fire district.

(ii) The generator must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (f)(i) of this subsection) container storage in a manner equivalent with the International Fire Code. Where no specific standard or requirements are specified in the International Fire Code, or in existing state or local fire codes, applicable sections of NFPA 30 "Flammable and Combustible Liquids Code," must be used. The generator must also comply with the requirements of WAC 173-303-395 (1)(d).

(iii) The generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to, the following: Frictional heat, sparks (static, electrical, or mechanical), and radiant heat. While ignitable or reactive waste is being handled, the generator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(g) Special requirements for incompatible wastes.

(i) Incompatible waste, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(ii) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(iii) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(h) Closure.

(i) At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, base, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

(ii) In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610 (2) and (5).

(i) Air emission standards. The generator must comply with the applicable requirements of 40 C.F.R. Part 265, Subparts AA, BB, and CC incorporated by reference in WAC 173-303-400 (3)(a).

(4) Accumulation of dangerous waste in tanks. The generator must comply with:

(a) Applicable air emission standards of 40 C.F.R. Part 265, Subparts AA, BB, and CC incorporated by reference in WAC 173-303-400 (3)(a); and

(b) Tank standards of WAC 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility of their tank system to satisfy the requirement of this section.) Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5).

(5) Accumulation of (~~dangerous~~) hazardous waste on drip pads. If the waste is placed on drip pads, the generator must comply with the following:

(a) WAC 173-303-675; and

(b) Remove all wastes from the drip pad and associated collection systems at least once every ninety days; and

(c) Waste removed from drip pads and associated collection systems must be sent immediately to:

(i) An off-site designated facility; or

(ii) An on-site permitted facility; or

(iii) To an on-site central accumulation area where the waste is managed in compliance with the on-site central accumulation area regulations in this section for the remainder of the ninety-day accumulation time limit for large quantity generators. (Example: A generator removes waste from the drip pad at fifty days, and the generator is then allowed to further accumulate that waste in its central accumulation area for up to an additional forty days.);

(d) Maintain the following records on site and readily available for inspection:

(i) The original start date waste was first placed on, or began to accumulate on, the drip pad;

(ii) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection systems at least once every ninety days; and

(iii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(6) Accumulation of hazardous waste in containment buildings. If the waste is placed in containment buildings, the generator must comply with the following:

(a) 40 C.F.R. Part 265, Subpart DD, which is incorporated by reference; and

(b) Labeling.

(i) The generator must label its containment building with the words "Dangerous Waste" or "Hazardous Waste" in a conspicuous place easily visible and legible to employees, visitors, emergency responders, waste handlers, or other persons on site. The label must be visible and legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(ii) The generator must also, in a conspicuous place easily visible and legible to employees, visitors, emergency responders, waste handlers, or other persons on site, provide its containment building with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous waste). The indication must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents.

(c) The generator must also maintain the following records at the facility:

(i) The independent qualified registered professional engineer certification that the building complies with the design standards specified in 40 C.F.R. 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. Where Subpart G and H are referenced in 40 C.F.R. 265.1102, replace them with WAC 173-303-610 and 173-303-620. After February 18, 1993, PE certification will be required prior to operation of the unit.

(ii) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(iii) Documentation that the unit is emptied at least once every ninety days.

(iv) Inventory logs or records with the above information must be maintained on site and readily available for inspection.

(7) Labeling and marking of containers and tanks.

(a) A generator must clearly mark or label (~~its~~) their containers as follows:

(i) With the date upon which each period of accumulation begins ~~((is))~~ marked and clearly visible for inspection ~~((on each container))~~.

(ii) With the words "Dangerous Waste" or "Hazardous Waste." Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(iii) With an indication of the hazards of the contents (examples include, but are not limited to, applicable dangerous waste characteristic(s) or criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

(iv) Affix labels upon transfer of dangerous wastes from one container to another. The generator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility.

(v) Ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection as required under subsection (3)(d) of this section.

(b) Generators accumulating dangerous waste in tanks must do the following:

(i) Clearly mark or label its tanks with the words "Dangerous Waste" or "Hazardous Waste" where the label or marking is legible from a distance of fifty feet. For underground tank systems, the marking or labels must either be placed on aboveground postings at each underground tank system or at each entrance to the active portion (area where the underground tank/tank system is located).

(ii) Clearly mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). For underground tank systems, the hazardous marking or labels must either be placed on aboveground postings at each underground tank system or at each entrance to the active portion (area where the underground tank/tank system is located). The label or marking must be:

(A) Legible and/or recognizable from a distance of at least fifty feet.

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the tanks for the public, emergency response personnel, and employees.

(iii) Use inventory logs, monitoring equipment, or other records to demonstrate that dangerous waste has been emptied within ninety days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of dangerous

waste entering the tank daily exit the tank within ninety days of first entering.

(iv) Keep inventory logs or records with the above information on site and readily available for inspection.

(c) The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger - unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance twenty-five feet or more.

(8) Emergency procedures. The generator complies with the standards of WAC 173-303-201.

(9) Personnel training.

(a) Training program. The generator must provide a program of classroom instruction or on-the-job training for facility personnel. This program must teach personnel to perform their duties in a way that ensures the facility's compliance with this chapter, must teach facility personnel dangerous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, must ensure that facility personnel are able to respond effectively to emergencies, and must include those elements set forth in the training plan required in (b) of this subsection. In addition:

(i) The training program must be directed by a person knowledgeable in dangerous waste management procedures, and must include training relevant to the positions in which the facility personnel are employed;

(ii) Facility personnel must participate in an annual review of the training provided in the training program;

(iii) This program must be successfully completed by the facility personnel:

(A) Within six months after these regulations become effective; or

(B) Within six months after their employment at or assignment to the facility, or to a new position at the facility, whichever is later.

(iv) Employees hired after the effective date of these regulations must be supervised until they complete the training program; and

(v) At a minimum, the training program must familiarize facility personnel with emergency equipment and systems, and emergency procedures. The program must include other parameters as set forth by the department, but at a minimum must include, where applicable:

(A) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(B) Key parameters for automatic waste feed cut-off systems;

(C) Communications or alarm systems;

(D) Response to fires or explosions;

(E) Response to ground-water contamination incidents; and

(F) Shutdown of operations.

(b) Written training plan. The generator must develop a written training plan which must be kept at the facility and which must include the following documents and records:

(i) For each position related to dangerous waste management at the facility, the job title, the job description, and the name of the employee filling each job. The job description

must include the requisite skills, education, other qualifications, and duties for each position;

(ii) A written description of the type and amount of both introductory and continuing training required for each position; and

(iii) Records documenting that facility personnel have received and completed the training required by this section. The department may require, on a case-by-case basis, that training records include employee initials or signature to verify that training was received.

(c) Training records. Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

(10) General inspections.

(a) The generator must inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The generator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b) The generator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

(i) The schedule must be kept at the facility;

(ii) The schedule must identify the types of problems which are to be looked for during inspections;

(iii) The generator must keep a written or electronic inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least five years from the date of inspection.

(c) The generator must remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(11) Land disposal restrictions. The generator complies with all applicable requirements under 40 C.F.R. 268.

(12) Closure. A generator accumulating dangerous waste in containers, tanks, drip pads and containment buildings, prior to closing a unit at the facility, or prior to closing the facility, must meet the following conditions:

(a) Notification for closure of a waste accumulation unit. The generator must perform one of the following when closing a waste accumulation unit:

(i) Place a notice in the operating record within thirty days after closure identifying the location of the unit within the facility; or

(ii) Meet the closure performance standards of (c) of this subsection for container, tank, and containment building

waste accumulation units or (d) of this subsection for drip pads and notify the department following the procedures of (b)(ii) of this subsection for the waste accumulation unit. If the waste accumulation unit is subsequently reopened, the generator may remove the notice from the operating record.

(b) Notification of closure of the facility.

(i) Notify the department using the Washington State Dangerous Waste Site Identification Form no later than thirty days prior to closing the facility.

(ii) Notify the department using the Washington State Dangerous Waste Site Identification Form within ninety days after closing the facility that it has complied with the closure performance standards of (c) or (d) of this subsection, respectively. If the facility cannot meet the closure performance standards of (c) or (d) of this subsection, notify the department using the Washington State Dangerous Waste Site Identification Form that it will close as a landfill under WAC 173-303-665 in the case of a container, tank or containment building unit(s), or for a facility with drip pads, notify using the Washington State Dangerous Waste Site Identification Form that it will close under the drip pad standards of WAC 173-303-675.

(iii) A generator may request additional time to clean at closure (i.e., to meet the closure performance standards of (c) or (d) of this subsection, respectively), but it must notify the department using the Washington State Dangerous Waste Site Identification Form within seventy-five days after the date provided in (b)(i) of this subsection to request an extension and provide an explanation as to why the additional time is required.

(c) Closure performance standard for container, tank systems and containment building waste accumulation units. At closure the generator must close the accumulation unit or facility in a manner that:

(i)(A) Minimizes the need for further maintenance;

(B) Controls, minimizes or eliminates to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous waste constituents, leachate, contaminated runoff, or dangerous waste decomposition products to the ground, surface water, groundwater, or the atmosphere; and

(C) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(ii) Remove or decontaminate all contaminated equipment, bases, structures and soil and any remaining dangerous waste residues from waste accumulation units including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment. Such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(A) For soils, groundwater, surface water, and air, the numeric cleanup levels calculated using unrestricted use exposure assumptions according to the Model Toxics Control Act regulations, chapter 173-340 WAC as of the effective date or hereafter amended. Primarily, these will be numeric cleanup levels calculated according to MTCA Method B, although MTCA Method A may be used as appropriate, see

WAC 173-340-700 through 173-340-760, excluding WAC 173-340-745; and

(B) For all structures, equipment, bases, liners, etc., clean closure standards will be set by the department on a case-by-case basis in accordance with the closure performance standards of (c) of this subsection and in a manner that minimizes or eliminates post-closure escape of dangerous waste constituents.

(iii) Any dangerous waste and all contaminated equipment, structures and soils generated in the process of closing either the generator's facility or unit(s) accumulating dangerous waste must be managed in accordance with all applicable standards of this chapter, including removing any dangerous waste contained in these units within ninety days of generating it and managing these wastes in a permitted designated facility.

(iv) If the generator demonstrates that any contaminated soils, equipment, structures, and wastes cannot be practicably removed or decontaminated as required in (c)(ii) of this subsection, then the waste accumulation unit is considered to be a landfill and the generator must close the waste accumulation unit and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (WAC 173-303-665). In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator must meet all of the requirements for landfills specified in WAC 173-303-665.

(d) Closure performance standards for drip pad waste accumulation units. At closure, the generator must comply with the closure requirements of (b), (c)(i) and (iii) of this subsection, and WAC 173-303-675.

(e) The closure requirements of this subsection do not apply to satellite accumulation areas.

(13) Accumulation of F006.

(a) A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, may accumulate F006 waste on site for more than ninety days, but not more than one hundred eighty days without a permit or without having interim status provided that:

(i) The generator has implemented pollution prevention practices that reduce the amount of any dangerous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(ii) The F006 waste is legitimately recycled through metals recovery;

(iii) No more than 44,000 pounds of F006 waste is accumulated on site at any one time; and

(iv) The F006 waste is managed in accordance with the following:

(A) The F006 waste is placed:

(I) In containers and the generator complies with the applicable requirements of WAC 173-303-200(3), 173-303-690 through 173-303-692; and/or

(II) In tanks and the generator complies with the applicable requirements of WAC 173-303-690 through 173-303-692 and 173-303-200(4); and/or

(III) In containment buildings and the generator complies with Subpart DD of 40 C.F.R. Part 265 which is incor-

porated by reference at WAC 173-303-400(3), and has placed its independent qualified registered professional engineer certification that the building complies with the design standards specified in 40 C.F.R. 265.1101 in the facility's operating record prior to operation of the unit. The (~~owner or operator~~) generator must maintain the following records at the facility:

- A written description of procedures to ensure that the F006 waste remains in the unit for no more than one hundred eighty days, a written description of the waste generation and management practices for the facility showing that they are consistent with the one hundred eighty-day limit, and documentation that the generator is complying with the procedures; or

- Documentation that the unit is emptied at least once every one hundred eighty days.

(B) In addition, such a generator is exempt from all the requirements in Subparts G and H of 40 C.F.R. Part 265, except for 265.111 and 265.114 which are incorporated by reference in WAC 173-303-400(3).

(C) Labeling and marking of containers and tanks. While being accumulated on site, each container and tank is clearly labeled or marked with:

(I) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(II) While being accumulated on site, each container and tank is labeled or marked clearly with the words "Dangerous Waste" or "Hazardous Waste." For containers the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height. For tanks the label or markings is legible from fifty feet. For underground tank systems, the label or markings, must either be placed on aboveground postings at each underground tank system or at each entrance to the active portion (area where the underground tank/tank system is located); and

(III) With an indication of the hazards of the contents (examples include, but are not limited to, applicable dangerous waste characteristic(s) or criteria of ignitable, corrosive, reactive and toxic). The label or marking must be:

- For containers, legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

- For tanks, legible and/or recognizable from fifty feet.

- A descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers or tanks for the public, emergency response personnel, and employees.

(D) The generator complies with the requirements for owners or operators in WAC 173-303-200(9), 173-303-201 and with 40 C.F.R. 268.7(a)(5) which is incorporated by reference in WAC 173-303-140 (2)(a).

(b) F006 transportation over two hundred miles. A generator who generates 2,200 pounds or greater of dangerous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of two hundred miles or more for off-site metals recovery, may accumulate F006 waste on

site for more than ninety days, but not more than two hundred seventy days without a permit or without having interim status if the generator complies with the requirements of (a)(i) through (iv) of this subsection.

(c) F006 accumulation time extension. A generator accumulating F006 in accordance with (a) and (b) of this subsection who accumulates F006 waste on site for more than one hundred eighty days (or for more than two hundred seventy days if the generator must transport this waste, or offer this waste for transportation, over a distance of two hundred miles or more), or who accumulates more than 44,000 pounds of F006 waste on site is an operator of a storage facility and is subject to the facility and permit requirements of this chapter unless the generator has been granted an extension to the one hundred eighty-day (or two hundred seventy-day, if applicable) period or an exception to the 44,000 pound accumulation limit. Such extensions and exceptions may be granted by the department if F006 waste must remain on site for longer than one hundred eighty days (or two hundred seventy days, if applicable) or if more than 44,000 pounds of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty days or an exception to the accumulation limit may be granted at the discretion of the department on a case-by-case basis.

(14) Rejected load. A generator who sends a shipment of dangerous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of WAC 173-303-370(5) may accumulate the returned waste on site in accordance with subsections (1) through (12) of this section. Upon receipt of the returned shipment, the generator must:

(a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(15) Consolidation of dangerous waste received from small quantity generators. Large quantity generators may accumulate on-site dangerous waste received from small quantity generators under the control of the same person (as defined in WAC 173-303-040), without a storage permit or interim status and without complying with the final facility standards of WAC 173-303-600, provided that they comply with the following conditions:

(a) Definitions. The definition of "control" as it applies to this section is found in WAC 173-303-040.

(b)(i) The large quantity generator must notify the department using Washington State Dangerous Waste Site Identification Form according to the instructions on the form at least thirty days prior to receiving the first shipment from a small quantity generator(s); and

(ii) Identifies on the form the name(s) and site address(es) for the small quantity generator(s) as well as the name and business telephone number for a contact person for the small quantity generator(s); and

(iii) Submits an updated Washington State Dangerous Waste Site Identification Form according to the instructions

on the form within thirty days after a change in the name or site address for the small quantity generator.

(c) The large quantity generator maintains records of shipments for five years from the date the dangerous waste was received from the small quantity generator. These records must identify the name, site address, and contact information for the small quantity generator and include a description of the dangerous waste received, including the quantity and the date the waste was received.

(d) The large quantity generator complies with the independent requirements identified in WAC 173-303-170 (2)(a)(iii) and the conditions for exemption in this section.

(e) For the purpose of complying with the labeling and marking regulations in subsection (7) of this section, the large quantity generator must label the container or unit with the date accumulation started (i.e., the date the dangerous waste was received from the small quantity generator). If the large quantity generator consolidates incoming dangerous waste from a small quantity generator with either its own dangerous waste or with dangerous waste from other small quantity generators, the large quantity generator must label each container or unit with the earliest date any dangerous waste in the container was accumulated on site.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-201 Preparedness, prevention, emergency procedures and contingency plans for large quantity generators. (1) Applicability. The regulations of this section apply to those areas of a large quantity generator's facility where dangerous waste is generated or accumulated on site.

(2) A large quantity generator facility must be designed, constructed, maintained and operated to minimize the possibility of fire, explosion, or any unplanned sudden or nonsudden release of dangerous waste, hazardous substance or dangerous waste constituents to air, soil, or surface or groundwater which could threaten the public health or the environment. This section describes preparations and preventive measures which help avoid or mitigate such situations.

(3) Required equipment. All areas deemed applicable by subsection (1) of this section must be equipped with the following, unless it can be demonstrated to the department that none of the hazards posed by waste or hazardous substance handled at the facility could require a particular kind of equipment specified below. A large quantity generator may determine the most appropriate locations within its facility to locate equipment necessary to prepare for and respond to emergencies:

(a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;

(b) A device, such as a telephone (immediately available at the scene of operations) or a hand-held, two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as those

using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

(4) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(5) Access to communications or alarms. Personnel must have immediate access to the signaling devices described in the situations below:

(a) Whenever dangerous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (3) of this section;

(b) If there is ever just one employee on the premises while the facility is operating, they must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held, two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (3) of this section.

(6) Aisle space. The generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the department that aisle space is not needed for any of these purposes.

(7) Arrangements with local authorities. The large quantity generator must attempt to make the following arrangements, as appropriate for the type of waste handled at its facility and the potential need for the services of these organizations, unless the hazards posed by wastes handled at the facility would not require these arrangements:

(a) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of dangerous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes;

(b) Arrangements to familiarize local hospitals with the properties of dangerous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility;

(c) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers;

(d) Where more than one party might respond to an emergency, agreements designating primary emergency authority and agreements with any others to provide support to the primary emergency authority;

(e) Where state or local authorities decline to enter into such arrangements, the (~~owner or operator~~) generator must document the refusal in the operating record; and

(f) A facility possessing twenty-four-hour response capabilities may seek a waiver from the authority having

jurisdiction (AHJ) over the fire code with the facility's locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the generator's operating record.

(8) Contingency plan purpose and implementation.

(a) The large quantity generator must have a contingency plan for the facility. The purpose of a contingency plan and emergency procedures is to lessen the potential impact on the public health and the environment due to any emergency event such as, but not limited to, a fire, natural disaster, explosion, or any unplanned sudden or nonsudden release of dangerous waste, hazardous substance or dangerous waste constituents to air, soil, surface water, or groundwater.

(b) A contingency plan must be developed to lessen the potential impacts of such emergency events, and the plan must be implemented immediately when such emergency events occur.

(9) Contents of a contingency plan.

(a) Each large quantity generator must have a contingency plan at their facility for use in emergencies or any sudden or nonsudden releases which threaten human health and the environment. If the generator has already prepared a spill prevention control and countermeasures (SPCC) plan in accordance with 40 C.F.R. Part 112, or some other emergency or contingency plan, they need only amend that plan to incorporate dangerous waste management provisions that are sufficient to comply with the requirements of this section. The large quantity generator may develop one contingency plan that meets all regulatory requirements. Ecology recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan").

(b) The contingency plan must contain the following:

(i) A description of the actions which facility personnel must take to comply with subsections (8) and (14) of this section and WAC 173-303-145;

(ii) A description of the actions which will be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the large quantity generator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(6), manifest system, reasons for not accepting dangerous waste shipments;

(iii) A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services as required in subsection (7) of this section;

(iv) A current list of names and emergency telephone numbers of all persons qualified to act as the emergency coordinator required in this section and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. In situations where the large quantity generator facility has an emergency coordinator continuously on duty because it operates twenty-four hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor)

as well as an emergency telephone number that can be guaranteed to be answered at all times;

(v) A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

(vi) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of materials or fires).

(10) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan must be:

(a) Maintained at the large quantity generator's facility; and

(b) Submitted by the large quantity generator to all local emergency responders (i.e., police departments, fire departments, hospitals, and state and local emergency response teams) that may be called upon to provide emergency services.

(11) Quick reference guide.

(a) A large quantity generator who first becomes subject to these provisions and any current large quantity generator who is amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified in subsection (10) of this section.

(b) Contents of the quick reference guide. This quick reference guide must include the following elements:

(i) The types and names of dangerous waste in layman's terms and the associated hazards associated with each dangerous waste present at any one time (e.g., toxic paint waste, spent ignitable solvent, corrosive acid);

(ii) The estimated maximum amount of each dangerous waste that may be present at any one time;

(iii) The identification of any dangerous waste where exposure would require unique or special treatment by medical or hospital staff;

(iv) A map of the facility showing where dangerous wastes are generated, accumulated, recycled and treated and routes for accessing these wastes;

(v) A street map of the facility in relation to surrounding businesses, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers;

(vi) The locations of water supply (e.g., fire hydrant and its flow rate);

(vii) The identification of on-site notification systems (e.g., a fire alarm that rings off site, smoke alarms); and

(viii) The name of the emergency coordinator(s) and seven days/twenty-four-hours emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator.

(c) Generators must update, if necessary, their quick reference guides, whenever the contingency plan is amended

and submit these documents to the local emergency responders identified in this section.

(12) Amendments of a contingency plan. The large quantity generator must review and immediately amend the contingency plan, if necessary, whenever:

(a) Applicable regulations are revised;

(b) The plan fails in an emergency;

(c) The generator's facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste or dangerous waste constituents, or in a way that changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

(13) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by subsection (9) of this section, all operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan and to implement the necessary emergency procedures outlined in subsection (14) of this section.

(14) Emergency procedures. The following procedures must be implemented in the event of an emergency:

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials.

(c) Concurrently, the emergency coordinator must assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment, they must report their findings as follows:

(i) If their assessment indicates that evacuation of local areas may be advisable, they must immediately notify appropriate local authorities. They must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) They must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their twenty-four-hour toll free number 1-800-424-8802).

(e) Their assessment report must include:

- (i) Name and telephone number of reporter;
- (ii) Name and address of facility;
- (iii) Time and type of incident (e.g., release, fire);
- (iv) Name and quantity of material(s) involved, to the extent known;
- (v) The extent of injuries, if any; and
- (vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(h) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

- (i) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and
- (ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(j) The large quantity generator must notify the department, and appropriate local authorities, that the facility is in compliance with this subsection (14)(i) of this section before operations are resumed in the affected area(s) of the facility.

(k) The large quantity generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, they must submit a written report on the incident to the department. The report must include:

- (i) Name, address, and telephone number of the (~~owner or operator~~) generator;
- (ii) Name, address, and telephone number of the facility;
- (iii) Date, time, and type of incident (e.g., fire, explosion);
- (iv) Name and quantity of material(s) involved;
- (v) The extent of injuries, if any;
- (vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable;
- (vii) Estimated quantity and disposition of recovered material that resulted from the incident;
- (viii) Cause of incident; and
- (ix) Description of corrective action taken to prevent reoccurrence of the incident.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-220 Generator reporting. The generator must submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator or any person who has obtained an EPA/state identification number pursuant to WAC 173-303-060 must submit an annual report to the department if the number has been active any time during the reporting year, on the Dangerous Waste Annual Report according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.

(b) Any generator who is a large quantity generator or a medium quantity generator for at least one month of the calendar year who ships any dangerous waste off site to a treatment, storage, disposal or recycling facility must comply with the annual reporting requirements of WAC 173-303-060 covering those wastes and generator activities for that reporting year.

(c) Any generator who is a large quantity generator or a medium quantity generator for at least one month of the calendar year who stores, treats, recycles or disposes of dangerous waste on-site must comply with the annual reporting requirements of WAC 173-303-390 Facility reporting, covering those wastes and activities for that reporting year.

(d) Any large quantity generator that receives dangerous waste from small quantity generators pursuant to WAC 173-303-200(15) must comply with the annual reporting requirements of WAC 173-303-390 Facility reporting.

(e) Reporting for exports of hazardous waste is required on the annual report form. In addition, a separate annual report requirement is set forth at 40 C.F.R. 262.83(g), which is incorporated by reference at WAC 173-303-230(1).

(2) Exception reports.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.

(b) A generator must submit an exception report to the department if they have not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

(c) The exception report must include:

- (i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and
- (ii) A cover letter signed by the generator or their representative explaining the efforts taken to locate the waste and the results of those efforts.

(d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.

(e) For rejected shipments of dangerous waste or container residues contained in nonempty containers that are forwarded to an alternate facility by a designated facility using a new manifest (following the procedures of WAC 173-303-370 (5)(e)), the generator must comply with the requirements of (a) through (d) of this subsection, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of (a) through (d) of this subsection for a shipment forwarding such waste to an alternate facility by a designated facility:

(i) The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility; and

(ii) The thirty-five and forty-five day time frames begin the date the waste was accepted by the initial transporter forwarding the dangerous waste shipment from the designated facility to the alternate facility.

Note: The submission to the department need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

(3) Additional reports. The ~~((director, as they))~~ department, as it deems necessary under chapter 70.105 RCW, may require a generator to furnish additional reports ~~((including engineering reports,))~~ for example, plans, ((and)) specifications and engineering reports concerning the quantities and disposition of the generator's dangerous waste and the generator's compliance with this chapter.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-250 Dangerous waste acceptance, transport, and delivery. (1)(a) A transporter may not accept dangerous waste from a generator unless the transporter is also provided with a manifest signed in accordance with WAC 173-303-180(3) (Manifest procedures) or is provided with an electronic manifest that is obtained, completed, and transmitted in accordance with WAC 173-303-180(9) and signed with a valid and enforceable electronic signature as described in WAC 173-303-180(11).

(b) Exports. For exports of dangerous waste subject to 40 C.F.R. 262 Subpart H (which is incorporated by reference at WAC 173-303-230(1)), a transporter may not accept such waste without a manifest signed by the generator in accordance with this section, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. Part 262.83(d).

(2) Before transporting a dangerous waste shipment, the transporter must sign and date the manifest, acknowledging acceptance of the dangerous waste. The transporter must return a signed copy to the generator before commencing transport.

(3) The transporter must insure that the manifest accompanies the dangerous waste shipment. In the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all informa-

tion required by 40 C.F.R. Part 262.83(d) also accompanies the dangerous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 40 C.F.R. Part 262.84(d) also accompanies the dangerous waste.

(4) A transporter who delivers a dangerous waste to another transporter, or to the designated facility must:

(a) Obtain the date of delivery and the handwritten signature of that transporter or designated facility owner/operator on the manifest;

(b) Retain one copy of the manifest in accordance with WAC 173-303-260, Transporter recordkeeping; and

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) Except as provided in subsection (6) of this section, the transporter must deliver the entire quantity of dangerous waste which they have accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility, if the dangerous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(6)(a) Emergency condition. If the dangerous waste cannot be delivered in accordance with subsection (5)(a), (b) and (d) of this section because of an emergency condition other than rejection of the waste by the designated facility, or alternate designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

(b) Transporters without generator authority. If the dangerous waste is not delivered to the next designated transporter in accordance with subsection (5)(c) of this section, and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if:

(i) The dangerous waste is not delivered in accordance with subsection (5)(c) of this section because of an emergency condition; or

(ii) The current transporter proposes to change the transporter(s) designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

(iii) The generator authorizes the revision.

(c) Transporters with generator authorization. If the dangerous waste is not delivered to the next designated transporter in accordance with subsection (5)(c) of this section, and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporters(s) designated on the man-

ifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that:

(i) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

(ii) The transporter enters in Item 14 of each manifest for which such a change is made, the following statement of its agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf"; and

(iii) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

(d) Generator liability. The grant by the generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under (c) of this subsection does not affect the generator's liability or responsibility for complying with any applicable requirement under this chapter, or grant any additional authority to the transporter to act on behalf of the generator.

(e) Rejected loads. If dangerous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:

(i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with WAC 173-303-260, and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in WAC 173-303-370 (5)(e)(i) through (vi) or 173-303-370 (5) (f)(i) through (vi).

(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and identification number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with WAC 173-303-260, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with WAC 173-303-370 (5)(e)(i) through (vi).

(7) The requirements of subsections (3), (4), and (8) of this section do not apply to water (bulk shipment) transporters if:

(a) The dangerous waste is delivered by water (bulk shipment) to the designated facility; and

(b) A shipping paper containing all the information required on the manifest (excluding the EPA/state identifica-

tion numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. part 262.83(d) or 262.84(d) accompanies the dangerous waste; and

(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and

(d) The person delivering the dangerous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with WAC 173-303-260(2).

(8) For shipments involving rail transportation, the requirements of subsections (3), (4), and (7) of this section do not apply and the following requirements do apply.

(a) When accepting dangerous waste from a nonrail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the dangerous waste;

(ii) Return a signed copy of the manifest to the nonrail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next nonrail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with WAC 173-303-260(2).

(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. Part 262.83(d) or 262.84(d) accompanies the dangerous waste at all times. (Note: Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.)

(c) When delivering dangerous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with WAC 173-303-260(2).

(d) When delivering dangerous waste to a nonrail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with WAC 173-303-260(2).

(e) Before accepting dangerous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(9) Transporters who transport dangerous waste out of the United States must:

(a) Sign and date the manifest in the international shipments block to indicate the date that the shipment left the United States;

(b) Retain one copy in accordance with WAC 173-303-260(3), Transporter recordkeeping;

(c) Return a signed copy of the manifest to the generator; and

(d) For paper manifest only:

(i) Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in WAC 173-303-370 (2)(e); and

(ii) For shipments initiated prior to the automated export system (AES) filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

(10) Use of electronic manifest.

(a) Legal equivalence to paper forms for participating transporters. Electronic manifests that are obtained, completed, and transmitted in accordance with WAC 173-303-180(9) and used in accordance with this section are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this section to obtain, complete, sign, provide, give, use or retain a manifest.

(i) Any requirement in this section to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of WAC 173-303-180(11).

(ii) Any requirement in this section to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.

(iii) Any requirement in this section for a manifest to accompany a dangerous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 40 C.F.R. Part 177.817, a dangerous waste transporter must carry one printed copy of the electronic manifest on the transport vehicle. In addition, the one printed copy of the electronic manifest must provide the information required in WAC 173-303-180(6) for state-only dangerous waste that designates only by the criteria under WAC 173-303-100.

(iv) Any requirement in this section for a transporter to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the transporter's account on the national e-Manifest system, provided that such copies are readily available for viewing and production upon request.

(v) A transporter may not be held liable for the inability to produce an electronic manifest for inspection under this section if the transporter can demonstrate that the inability to

produce the electronic manifest is due exclusively to a technical difficulty with the EPA's electronic manifest system for which the transporter bears no responsibility.

(b) A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

(c) Special procedures when electronic manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then:

(i) The transporter in possession of the dangerous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to (a)(iii) of this subsection, or obtain and complete another paper manifest for this purpose. The transporter shall reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the dangerous waste.

(ii) On each printed copy, the transporter shall include a notation in the special handling and additional description space (Item 14) that the paper manifest is a replacement manifest for the manifest originated in the electronic manifest system, shall include (if not preprinted on the replacement manifest) the manifest tracking number of the electronic manifest that is replaced by the paper manifest, and shall also include a brief explanation why the electronic manifest was not available for completing the tracking of the shipment electronically.

(iii) A transporter signing a replacement manifest to acknowledge receipt of the dangerous waste must ensure that each paper copy is individually signed and that a legible handwritten ink signature appears on each copy.

(iv) From the point at which the electronic manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies shall be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

(d) Special procedures for electronic signature methods undergoing tests. If a transporter using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of this signature method, then the transporter shall sign the electronic manifest electronically and also sign with an ink signature the transporter acknowledgment of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with (a)(iii) of this subsection. This printed copy bearing the generator's and transporter's ink signatures shall also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner/operator of the designated facility has signed this printed manifest

copy with its ink signature, the printed manifest copy shall be delivered to the designated facility with the waste materials.

(e) Imposition of user fee. A transporter who is a user of the electronic manifest may be assessed a user fee by EPA for the origination or processing of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees will be published as an appendix to 40 C.F.R. Part 262, by EPA.

(f) Post-receipt manifest data corrections. After facilities have certified to the receipt of dangerous waste by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Transporters may participate electronically in the post-receipt data corrections process by following the process described in WAC 173-303-370 (10)(g), which applies to corrections made to either paper or electronic manifest records.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-370 Manifest system. (1) Applicability. The requirements of this section apply to owners and operators of permitted treatment, storage, and disposal facilities and of dangerous waste recycling facilities operating under the requirements of this chapter who receive dangerous waste from off-site sources or who initiates a shipment of dangerous waste off-site. If a facility receives dangerous waste accompanied by a manifest, the owner, operator, or their agent must sign and date the manifest as indicated in subsection (2) of this section to certify that the dangerous waste covered by the manifest was received, that the dangerous waste was received except as noted in the discrepancy space of the manifest, or that the dangerous waste was rejected as noted in the manifest discrepancy space.

(2) If a facility receives dangerous waste shipment accompanied by a manifest, the owner, operator, or their agent, must:

- (a) Sign and date, by hand, each copy of the manifest;
- (b) Note any discrepancies (as defined in subsection (5)(a) of this section) on each copy of the manifest;
- (c) Immediately give the transporter at least one copy of the manifest;
- (d) Within thirty days of delivery, send a copy of the manifest to the generator;

(e) ~~(Within thirty days of delivery, send the top copy (Page 1) of the manifest to the electronic manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to the electronic manifest system operator, the owner or operator may transmit to the system operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this subsection must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system; and)~~ Paper manifest submission requirements are:

(i) Options for compliance on June 30, 2018. Beginning on June 30, 2018, send the top copy (page 1) of any paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing, or in lieu of submitting the paper copy to EPA, the owner or operator may transmit to the EPA system an image file on page 1 of the manifest and any continuation sheet, or both a data file and image file corresponding to page 1 of the manifest and any continuation sheet, within thirty days of the date of delivery. Submissions of copies to the e-Manifest system shall be made and the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, EPA will not accept mailed paper manifests from facilities for processing in e-Manifest.

(ii) Options for compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to send the top copy (page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing, may be met by the owner or operator only by transmitting to the EPA system an image file of page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and image file corresponding to page 1 of the manifest and any continuation sheet, within thirty days of the date of delivery. Submissions of copies to the e-Manifest system shall be made and the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services; and

(f) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) The owner or operator of a facility receiving dangerous waste subject to 40 C.F.R. Part 262, Subpart H (as incorporated by reference at WAC 173-303-230(1)) from a foreign source must:

(a) Additionally list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700-22A); and

(b) Send a copy of the manifest within thirty days of delivery to EPA using the addresses listed in 40 C.F.R. 262.82(e) until the facility can submit such a copy to the e-Manifest system per subsection (2)(e) of this section.

(4) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator's certification, and signatures), the owner or operator, or their agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in subsection (5) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within thirty days after delivery) to the generator; and

(e) Retain at the facility a copy of each manifest and shipping paper ((and manifest)) (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

(5) Manifest discrepancies.

(a) Manifest discrepancies are:

(i) Significant differences (as defined in (b) of this subsection) between the quantity or type of dangerous waste designated on the manifest or shipping paper, and the quantity and type of dangerous waste a facility actually receives;

(ii) Rejected wastes, which may be a full or partial shipment of dangerous waste that the TSDF cannot accept; or

(iii) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in WAC 173-303-160(2).

(b) Significant differences in quantity are: For bulk waste, variations greater than ten percent in weight (for example, tanker trucks, railroad tank cars, etc.); for batch waste, any variations in piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(i) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in WAC 173-303-160(2), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within sixty days of the rejection or the container residue identification.

(ii) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under (e) or (f) of this subsection.

(e) Except as provided in (e)(vii) of this subsection, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with WAC 173-303-180 and the following instructions:

(i) Write the generator's EPA/state ID# in Item 1 of the new manifest. Write the generator's name and mailing

address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(ii) Write the name of the alternate designated facility and the facility's EPA/state ID# in the designated facility block (Item 8) of the new manifest.

(iii) Copy the manifest tracking number found in Item 4 of the old manifest to the special handling and additional information block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(iv) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the discrepancy block of the old manifest (Item 18a).

(v) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(vi) Sign the generator's/offeror's certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.

(vii) For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the alternate facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with (e)(i), (ii), (iii), (iv), (v), and (vi) of this subsection.

(f) Except as provided in (f)(vii) of this subsection, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with WAC 173-303-180 and the following instructions:

(i) Write the facility's EPA/state ID# in Item 1 of the new manifest. Write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then write the facility's site address in the designated space for Item 5 of the new manifest.

(ii) Write the name of the initial generator and the generator's EPA/state ID# in the designated facility block (Item 8) of the new manifest.

(iii) Copy the manifest tracking number found in Item 4 of the old manifest to the special handling and additional information block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(iv) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the discrepancy block of the old manifest (Item 18a).

(v) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(vi) Sign the generator's/offeror's certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(vii) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the alternate facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with (f)(i), (ii), (iii), (iv), (v), (vi), and (viii) of this subsection.

(viii) For full or partial load rejections and container residues contained in nonempty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in WAC 173-303-220(2).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in WAC 173-303-160(2) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within thirty days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

(6) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by their facility.

(a) The following are acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;

(ii) There is a significant discrepancy (as described in subsection (5) of this section) between the shipment and the wastes listed on the manifest or shipping paper; or

(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may send the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (b) of this subsection, then the owner or operator must take those actions described in the contingency plan, WAC 173-303-350 (3)(b).

(7) Within three working days of the receipt of a shipment subject to 40 C.F.R. Part 262, Subpart H (which is incorporated by reference at WAC 173-303-230(1)), the owner or operator of the facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit of dangerous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

(8) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. Facilities must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

(9) Whenever a shipment of dangerous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of this chapter. The provisions of WAC 173-303-172, 173-303-174, and 173-303-200 through 173-303-201 of this chapter are applicable to the on-site accumulation of dangerous waste by generators. Therefore, the provisions of WAC 173-303-170, 173-303-172, 173-303-174, and 173-303-200 through 173-303-201 of this chapter only apply to owners or operators who are shipping dangerous waste which they generated at that facility or operating as a large quantity generator consolidating dangerous waste from small quantity generators under WAC 173-303-200(15).

(10) Use of electronic manifest.

(a) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with WAC 173-303-180(9) and used in accordance with this section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this section to obtain, complete, sign, provide, use or retain a manifest.

(i) Any requirement in this section for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of WAC 173-303-180(11).

(ii) Any requirement in this section to give, provide, send, forward, or return to another person a copy of the man-

ifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.

(iii) Any requirement in this section for a manifest to accompany a dangerous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the dangerous waste shipment.

(iv) Any requirement in this section for an owner or operator of a facility to keep or retain a copy of each manifest is satisfied by retention of the facility's electronic manifest copies in its account on the national e-Manifest system, provided that such copies are readily available for viewing and production upon request.

(v) An owner or operator of a facility may not be held liable for the inability to produce an electronic manifest for inspection under this section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the EPA's electronic manifest system for which the owner or operator bears no responsibility.

(b) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

(c) Special procedures applicable to replacement manifests. If a facility receives dangerous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the dangerous waste by the final transporter:

(i) Upon delivery of the dangerous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification or Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the replacement manifest;

(ii) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;

(iii) Within thirty days of delivery of the dangerous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the EPA e-Manifest system; and

(iv) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least five years from the date of delivery.

(d) Special procedures for electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of this signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this

original copy for at least five years from the date of delivery of the waste.

~~(e) Imposition of user fee. ((An owner or operator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination and processing of each electronic manifest. An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under subsection (2)(e) of this section. EPA shall maintain and update from time to time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees will be published as an appendix to 40 C.F.R. Part 262, by EPA.))~~

(i) As prescribed in 40 C.F.R. Part 264.1311, and determined in Part 264.1312, an owner or operator who is a user of the electronic manifest system shall be assessed a user fee by EPA for the submission and processing of each electronic and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 C.F.R. Part 264.1313.

(ii) An owner or operator subject to user fees under this section shall make user fee payments in accordance with the requirements of 40 C.F.R. Part 264.1314, subject to the informal fee dispute resolution process of 40 C.F.R. Part 264.1316, and subject to the sanctions for delinquent payments under 40 C.F.R. Part 264.1315.

(f) Electronic manifest signatures. Electronic manifest signatures shall meet the criteria described in WAC 173-303-180(11).

(g) Post-receipt manifest data corrections. After facilities have certified to the receipt of dangerous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest.

(i) Interested persons must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in e-Manifest for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.

(ii) Each correction submission must include the following information:

(A) The manifest tracking number and date of receipt by the facility of the original manifest(s) for which data are being corrected;

(B) The item number(s) of the original manifest that is the subject of the submitted correction(s); and

(C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

(iii) Each correction submission shall include a statement that the person submitting the corrections certifies that to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received dangerous wastes to be true, accurate, and complete:

(A) The certification statement must be executed with a valid electronic signature; and

(B) A batch upload of data corrections may be submitted under one certification statement.

(iv) Upon receipt by the system of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.

(v) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the system certified by the respondent as specified in (g)(iii) of this subsection, and with notice of the corrections to other interested persons shown on the manifest.

(11) Fees for the electronic Hazardous Waste Manifest program. The fee requirements for the electronic Hazardous Waste Manifest System at 40 C.F.R. Part. 264 Subpart FF are incorporated by references.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility must keep a written operating record at their facility. The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses, waste determinations (as required by 40 C.F.R. Parts 264 and 265, Subpart CC), and trial tests required by WAC 173-303-300, General waste analysis, and by 40 C.F.R. sections 264.1034, 264.1063, 264.1083, 265.1034, 265.1063, 265.1084, 268.4 (a), and 268.7. Note that data from laboratory analyses for 40 C.F.R. 268.4(a) and 268.7 must meet the requirements of WAC 173-303-110;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for five years);

(f) Monitoring, testing, or analytical data, and corrective action where required by 40 C.F.R. Part 265, Subparts F through R and sections 265.1034 (c) through (f), 265.1035, 265.1063 (d) through (i), 265.1064, and 265.1083 through 265.1090 for interim status facilities (incorporated by reference at WAC 173-303-400(3)), and by WAC 173-303-630 through 173-303-695 and 40 C.F.R. sections 264.1034 (c) through (f), 264.1035, 264.1063 (d) through (i), 264.1064,

and 264.1082 through 264.1090 for final status facilities (incorporated by reference at WAC 173-303-690, 173-303-691, and 173-303-692). Note that data provided from laboratory analyses for WAC 173-303-400(3) which incorporates by reference 40 C.F.R. Part 265, Subparts F through R, WAC 173-303-140 (4)(b), 173-303-395(1), 173-303-630 through 173-303-680, 173-303-693 and 173-303-695, 40 C.F.R. 268.4(a) and 268.7 must meet the requirements of WAC 173-303-110;

(g) All closure and post-closure cost estimates required for the facility;

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices;

(i) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 40 C.F.R. 268.5, a petition pursuant to 40 C.F.R. 268.6, and the applicable notice required by a generator under 40 C.F.R. 268.7(a);

(j) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 C.F.R. 268.7;

(k) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 C.F.R. 268.7;

(l) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under 40 C.F.R. 268.7;

(m) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 C.F.R. 268.7, except for the manifest number;

(n) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 C.F.R. 268.7;

(o) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 C.F.R. 268.7;

(p) Any records required under WAC 173-303-280(6);

(q) A certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that they generate to the degree determined by the permittee to be economically practicable; and the proposed method of treatment, storage or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment; and

(r) Certifications of major repairs to tank systems as required by WAC 173-303-640 (7)(f).

(2) Recordkeeping instructions. This subsection provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information must be recorded, as it becomes available, and

maintained in the operating record until closure of the facility, as follows:

(a) Each dangerous waste received, treated, stored, or disposed of at the facility must be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Each listed, characteristic, and criteria waste has its own four-digit dangerous waste number. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed in WAC 173-303-9903 or 173-303-9904, the waste description must include the process which generated the waste;

(b) The waste description must include the waste's physical form (i.e., liquid, solid, sludge, or contained gas);

(c) The estimated or manifest-reported weight, or volume and density, where applicable, of the dangerous waste must be recorded, using one of the units of measure specified in Table 1, below; and

Table 1

Unit of Measure	Code ¹
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short tons (2000 lbs)	T
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds	P
Pounds per Hour	J
Kilograms	K
Kilograms per Hour	R
Cubic yards	Y
Cubic meters	C
Acres	B
Acres-feet	A
Hectares	Q
Hectare-meter	F
Btus per Hour	I
Tons ((2000 lbs) 1000 Kg)	M

Footnote: ¹Single-digit symbols are used here for data processing purposes.

(d) The method(s) (by handling code(s)) of management for each dangerous waste received or managed, and the date(s) of treatment, recycling, storage, or disposal must be

recorded, using the handling code(s) specified in Table 2, below.

Table 2

Handling Codes for Treatment, Storage, and Disposal Methods

Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of dangerous waste received.

1. Storage
 - S01 Container (barrel, drum, etc.)
 - S02 Tank
 - S03 Waste pile
 - S04 Surface impoundment
 - S05 Drip Pad
 - S06 Containment Building (Storage)
 - S99 Other storage (specify)
2. Treatment
 - (a) Thermal Treatment
 - T06 Liquid injection incinerator
 - T07 Rotary kiln incinerator
 - T08 Fluidized bed incinerator
 - T09 Multiple hearth incinerator
 - T10 Infrared furnace incinerator
 - T11 Molten salt destructor
 - T12 Pyrolysis
 - T13 Wet air oxidation
 - T14 Calcination
 - T15 Microwave discharge
 - T18 Other (specify)
 - (b) Chemical treatment
 - T19 Absorption mound
 - T20 Absorption field
 - T21 Chemical fixation
 - T22 Chemical oxidation
 - T23 Chemical precipitation
 - T24 Chemical reduction
 - T25 Chlorination
 - T26 Chlorinolysis
 - T27 Cyanide destruction
 - T28 Degradation
 - T29 Detoxification
 - T30 Ion exchange
 - T31 Neutralization
 - T32 Ozonation
 - T33 Photolysis
 - T34 Other (specify)
 - (c) Physical treatment
 - (i) Separation of components
 - T35 Centrifugation
 - T36 Clarification
 - T37 Coagulation
 - T38 Decanting
 - T39 Encapsulation
 - T40 Filtration
 - T41 Flocculation
 - T42 Flotation
 - T43 Foaming
 - T44 Sedimentation
 - T45 Thickening

- T46 Ultrafiltration
- T47 Other (specify)
- (ii) Removal of specific components
 - T48 Absorption-molecular sieve
 - T49 Activated carbon
 - T50 Blending
 - T51 Catalysis
 - T52 Crystallization
 - T53 Dialysis
 - T54 Distillation
 - T55 Electrodialysis
 - T56 Electrolysis
 - T57 Evaporation
 - T58 High gradient magnetic separation
 - T59 Leaching
 - T60 Liquid ion exchange
 - T61 Liquid-liquid extraction
 - T62 Reverse osmosis
 - T63 Solvent recovery
 - T64 Stripping
 - T65 Sand filter
 - T66 Other (specify)
- (d) Biological treatment
 - T67 Activated sludge
 - T68 Aerobic lagoon
 - T69 Aerobic tank
 - T70 Anaerobic tank
 - T71 Composting
 - T72 Septic tank
 - T73 Spray irrigation
 - T74 Thickening filter
 - T75 Trickling filter
 - T76 Waste stabilization pond
 - T77 Other (specify)
 - T78-79 (Reserved)
- (e) Boilers and industrial furnaces
 - T80 Boiler
 - T81 Cement kiln
 - T82 Lime kiln
 - T83 Aggregate kiln
 - T84 Phosphate kiln
 - T85 Coke oven
 - T86 Blast furnace
 - T87 Smelting, melting, or refining furnace
 - T88 Titanium dioxide chloride process oxidation reactor
 - T89 Methane reforming furnace
 - T90 Pulping liquor recovery furnace
 - T91 Combustion device used in the recovery of sulfur values from spent sulfuric acid
 - T92 Halogen acid furnaces
 - T93 Other industrial furnaces listed in WAC 173-303-040 (specify)
- (f) Other treatment
 - T94 Containment building (treatment)
- 3. Disposal
 - D79 Underground injection
 - D80 Landfill
 - D81 Land treatment
 - D82 Ocean disposal

- D83 Surface impoundment
(to be closed as a landfill)
- D99 Other disposal (specify)

4. Miscellaneous (Subpart X)

- X01 Open burning/open detonation
- X02 Mechanical processing
- X03 Thermal unit
- X04 Geologic repository
- X99 Other Subpart X (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b)(i) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 C.F.R. Part 268, Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain, and the recycler complies with 40 C.F.R. 268.7 (b)(6) as modified in WAC 173-303-140 (2)(e).

(ii) Antiskid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of dangerous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in (b)(i) of this subsection and remain subject to regulation.

(iii) Fertilizers that contain recyclable materials are not subject to regulation provided that:

(A) They are zinc fertilizers excluded according to WAC 173-303-071 (3)(pp); or

(B) They meet the applicable treatment standards in subpart D of Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a), for each hazardous waste that they contain.

(Note: Fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in WAC 173-303-140 (2)(~~(a)~~) (b) that apply to the characteristics of dangerous waste that the state-only waste exhibits.)

(iv) The department may recommend registration under chapter 15.54 RCW for a waste-derived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (b)(iv)(A) or (B) of this subsection. However, the information requirements in (b)(iv)(A) of this subsection may not be required if: The registrant provides documentation that the fertilizer has been previously registered in Washington state two or more times using the information in (b)(iv)(A) of this subsection, and the source materials used to manufacture the product have not changed.

(A) Initial criteria.

(I) The applicable Land Disposal Restriction (LDR) Certification as described in 40 C.F.R. Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and

(II) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.

(B) Secondary criteria.

(I) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and

(II) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and

(III) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and

(IV) Other information as required by the department.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

(a) For generators, WAC 173-303-170 through 173-303-230;

(b) For transporters, WAC 173-303-240 through 173-303-270; and

(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 C.F.R. Part 268 (incorporated by reference in WAC 173-303-140 (2)(a)) and 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).

(d) The use of waste oil, used oil, or other material that is contaminated with dioxin or any other dangerous waste for dust suppression or road treatment is prohibited.

NEW SECTION

WAC 173-303-555 Special requirements for management of dangerous waste pharmaceuticals. (1) **Definitions.** The following definitions apply to this section:

"Dangerous waste pharmaceutical" means a pharmaceutical that is a solid waste, as defined in WAC 173-303-016, and that exhibits a dangerous waste characteristic, criteria, or is listed as dangerous waste under WAC 173-303-070. A pharmaceutical is not a solid waste, as defined in 173-303-016, if it is legitimately used/reused (e.g., lawfully donated for its intended purpose) or reclaimed. An over-the-counter pharmaceutical, dietary supplement, or homeopathic drug is not a solid waste, as defined in WAC 173-303-016, if it has a reasonable expectation of being legitimately used/reused (e.g., lawfully redistributed for its intended purpose) or reclaimed.

"Evaluated dangerous waste pharmaceutical" means a prescription dangerous waste pharmaceutical that has been evaluated by a reverse distributor in accordance with subsection (12)(c) of this section and will not be sent to another reverse distributor for further evaluation or verification of manufacture credit.

"Health care facility" means any person that is lawfully authorized to:

- Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or

- Distribute, sell, or dispense pharmaceuticals, including over-the-counter pharmaceuticals, dietary supplements, homeopathic drugs, or prescription pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals. This definition does not include pharmaceutical manufacturers, reverse distributors, or reverse logistic centers.

"Household waste pharmaceutical" means a pharmaceutical that is a solid waste, as defined in WAC 173-303-016, but is excluded from being a dangerous waste under WAC 173-303-071 (3)(c).

"Long-term care facility" means a licensed entity that provides assistance with activities of daily living, including managing and administering pharmaceuticals to one or more individuals at the facility. This definition includes, but is not limited to, hospice facilities, nursing facilities, skilled nursing facilities, and the nursing and skilled nursing care portions of continuing care retirement communities. Not included within the scope of this definition are group homes, independent living communities, assisted living facilities, and the independent and assisted living portions of continuing care retirement communities.

"Noncreditable dangerous waste pharmaceutical" means a prescription dangerous waste pharmaceutical that does not have a reasonable expectation to be eligible for manufacturer credit or a nonprescription dangerous waste pharmaceutical that does not have a reasonable expectation to be legitimately used/reused or reclaimed. This includes, but is not limited to, investigational drugs, free samples of pharmaceuticals received by health care facilities, and residue of pharmaceuticals remaining in empty containers, pharmaceutical contaminated personal protection equipment, floor sweepings, and clean-up materials from the spills of pharmaceuticals.

"Nondangerous waste pharmaceutical" means a solid waste pharmaceutical that does not meet the definition of "dangerous waste pharmaceutical" in this section.

"Nonpharmaceutical dangerous waste" means a solid waste that is a dangerous waste as defined by this chapter, but is not a pharmaceutical as defined in this section.

"Pharmaceutical" means any drug or dietary supplement for use by humans or animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., prefilled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drugs and Cosmetic Act; prescription drugs, as defined by 21 C.F.R. 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceutical remaining in nonempty containers; personal protection equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

"Potentially creditable dangerous waste pharmaceutical" means a prescription dangerous waste pharmaceutical that has a reasonable expectation to receive manufacturer credit and is:

- (a) In original manufacturer packaging (except pharmaceuticals that were subject to a recall); and
- (b) Undispensed; and
- (c) Unexpired or less than one year past expiration date. This term does not include evaluated dangerous waste pharmaceuticals or nonprescription pharmaceuticals including, but not limited to, over-the-counter drugs, homeopathic drugs, and dietary supplements.

"Reverse distributor" means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable dangerous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

"State-only dangerous waste pharmaceutical" means a dangerous waste pharmaceutical that only exhibits state criteria under WAC 173-303-100.

(2) Applicability.

(a) A health care facility that is a small quantity generator when counting all of its dangerous waste per month, including both its dangerous waste pharmaceuticals and its nonpharmaceutical dangerous waste, remains subject to WAC 173-303-170 (2)(a)(i) and 173-303-171 and is not sub-

ject to this section except for subsections (6) and (8) of this section and the optional provisions of subsections (5) and/or (7) of this section.

(b) A health care facility that is a small quantity generator when counting all of its dangerous waste per month, including both its dangerous waste pharmaceuticals and its nonpharmaceutical dangerous waste, has the option of complying with (d) of this subsection for its dangerous waste pharmaceuticals in lieu of complying with WAC 173-303-171 and with the optional provisions of subsection (5) of this section.

(c) A health care facility or reverse distributor remains subject to all applicable dangerous waste regulations with respect to the management of its nonpharmaceutical dangerous waste.

(d) With the exception of health care facilities identified in (a) of this subsection, a health care facility is subject to the following with respect to its dangerous waste pharmaceuticals in lieu of this chapter:

(i) Subsections (3) and (6) through (10) of this section with respect to the management of:

(A) Noncreditable dangerous waste pharmaceuticals; and

(B) Potentially creditable dangerous waste pharmaceuticals if they are not destined for a reverse distributor.

(ii) Subsections (3)(a), (4), (6) through (8), and (11) of this section with respect to the management of potentially creditable dangerous waste pharmaceuticals that are prescription pharmaceuticals and are destined for a reverse distributor.

(e) A reverse distributor is subject to subsections (6) through (15) of this section with respect to the management of dangerous waste pharmaceuticals.

(f) Dangerous waste pharmaceuticals generated or managed by entities other than health care facilities and reverse distributors (e.g., pharmaceutical manufacturers and reverse logistics centers) are not subject to this section. These generators are subject to this chapter for the generation and accumulation of dangerous wastes, including dangerous waste pharmaceuticals.

(g) The following are not subject to this chapter except as specified:

(i) Pharmaceuticals that are not solid waste, as defined by WAC 173-303-016, because they are legitimately used/reused (e.g., lawfully donated for their intended purpose) or reclaimed.

(ii) Over-the-counter pharmaceuticals, dietary supplements, or homeopathic drugs that are not solid wastes, as defined in WAC 173-303-016, because they have a reasonable expectation of being legitimately used/reused (e.g., lawfully redistributed for their intended purpose) or reclaimed.

(iii) Pharmaceuticals being managed in accordance with a recall strategy that has been approved by the Food and Drug Administration in accordance with 21 C.F.R. Part 7, Subpart C. This subpart does apply to the management of the recalled dangerous waste pharmaceuticals after the Food and Drug Administration approves the destruction of the recalled items.

(iv) Pharmaceuticals being managed in accordance with a recall corrective action plan that has been accepted by the

Consumer Product Safety Commission in accordance with 16 C.F.R. Part 1115. This subpart does apply to the management of the recalled dangerous waste pharmaceuticals after the Consumer Product Safety Commission approves the destruction of the recalled items.

(v) Pharmaceuticals stored according to a preservation order, or during an investigation or judicial proceeding until after the preservation order, investigation, or judicial proceeding has concluded and/or a decision is made to discard the pharmaceuticals.

(vi) Investigational new drugs for which an investigational new drug application is in effect in accordance with the Food and Drug Administration's regulations in 21 C.F.R. Part 312. This subpart does apply to the management of the investigational new drug after the decision is made to discard the investigational new drug or the Food and Drug Administration approves the destruction of the investigational new drug, if the investigational new drug is a dangerous waste.

(vii) Household waste pharmaceuticals, including those that have been collected by an authorized collector (as defined by the Drug Enforcement Administration), provided the authorized collector complies with the conditional exemption in subsection (7)(a)(ii) and (b) of this section.

(3) Standards for health care facilities managing non-creditable dangerous waste pharmaceuticals.

(a) Notification and withdrawal from this section for health care facilities managing dangerous waste pharmaceuticals.

(i) Notification. A health care facility must notify the department, using the Washington State Dangerous Waste Site Identification Form, that it is a health care facility operating under this section. A health care facility is not required to fill out Box 11 (description of hazardous/dangerous waste) on the Washington State Dangerous Waste Site Identification Form with respect to its dangerous waste pharmaceuticals. A health care facility must submit a separate notification (Washington State Dangerous Waste Site Identification Form) for each site or EPA/state identification number.

(A) A health care facility that already has an EPA/state identification number must notify the department, using the Washington State Dangerous Waste Site Identification Form, that it is a health care facility within sixty days of becoming subject to this section.

(B) A health care facility that does not have an EPA/state identification number must obtain one by notifying the department, using the Washington State Dangerous Waste Site Identification Form, that it is a health care facility within sixty days of becoming subject to this section.

(C) A health care facility must keep a copy of its notification on file for as long as the health care facility is subject to this section.

(ii) Withdrawal. A health care facility that operated under this section, but is no longer subject to this section, because it is a small quantity generator under WAC 173-303-171, and elects to withdraw from this section, must notify the department using the Washington State Dangerous Waste Site Identification Form, that it is no longer operating under this section. A health care facility is not required to fill out Box 11 (description of hazardous/dangerous waste) on the Washington State Dangerous Waste Site Identification Form

with respect to its dangerous waste pharmaceuticals. A health care facility must submit a separate notification (Washington State Dangerous Waste Site Identification Form) for each site or EPA/state identification number.

(A) A health care facility must submit the Washington State Dangerous Waste Site Identification Form notifying that it is withdrawing from this section before it begins operating under WAC 173-303-171.

(B) A health care facility must keep a copy of its withdrawal on file for five years from the date of signature on the notification of its withdrawal.

(b) Training of personnel managing noncreditable dangerous waste pharmaceuticals at health care facilities. A health care facility must ensure that all personnel that manage noncreditable dangerous waste pharmaceuticals are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(c) Dangerous waste determination for noncreditable pharmaceuticals. A health care facility that generates a solid waste that is a noncreditable pharmaceutical must determine whether that pharmaceutical is a dangerous waste pharmaceutical in order to determine whether the waste is subject to this section. A health care facility may choose to manage its nondangerous waste pharmaceuticals under this section.

(d) Standards for containers used to accumulate noncreditable dangerous waste pharmaceuticals at health care facilities.

(i) A health care facility must place noncreditable dangerous waste pharmaceuticals in a container that is structurally sound, compatible with its contents, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A health care facility that manages ignitable or reactive noncreditable dangerous waste pharmaceuticals, or that mixes or commingles incompatible noncreditable dangerous waste pharmaceuticals must manage the container so that it does not have the potential to:

(A) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(B) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(D) Damage the structural integrity of the container;

(E) Through other like means threaten human health or the environment.

(iii) A health care facility must keep containers of noncreditable dangerous waste pharmaceuticals closed and secured in a manner that prevents unauthorized access to its contents.

(iv) A health care facility may accumulate noncreditable dangerous waste pharmaceuticals and noncreditable nondangerous waste pharmaceuticals in the same container, except that noncreditable dangerous waste pharmaceuticals prohibited from being combusted because of 40 C.F.R. Part 268.3(c) must be accumulated in separate containers and labeled with all applicable dangerous waste numbers (i.e., dangerous waste codes).

(e) Labeling containers used to accumulate noncreditable dangerous waste pharmaceuticals at health care facilities. A health care facility must label or clearly mark each container of noncreditable dangerous waste pharmaceuticals with the phrase "Hazardous Waste Pharmaceuticals" or "Dangerous Waste Pharmaceuticals."

(f) Maximum accumulation time for noncreditable dangerous waste pharmaceutical at health care facilities.

(i) A health care facility may accumulate noncreditable dangerous waste pharmaceuticals on-site for one year or less without a permit or having interim status.

(ii) A health care facility that accumulates noncreditable dangerous waste pharmaceuticals on-site must demonstrate the length of time that the noncreditable dangerous waste pharmaceuticals have been accumulating, starting from the date it first becomes a waste. A health care facility may make this demonstration by any of the following methods:

(A) Marking or labeling the container of noncreditable dangerous waste pharmaceuticals with the date that the noncreditable dangerous waste pharmaceuticals first became a waste;

(B) Maintaining an inventory system that identifies the date the noncreditable dangerous waste pharmaceuticals first became a waste;

(C) Placing the noncreditable dangerous waste pharmaceuticals in a specific area and identifying the earliest date that any of the noncreditable dangerous waste pharmaceuticals became waste.

(g) Land disposal restrictions for noncreditable dangerous waste pharmaceuticals. The noncreditable dangerous waste pharmaceuticals generated by a health care facility are subject to the land disposal restrictions of 40 C.F.R. Part 268. A health care facility that generates noncreditable dangerous waste pharmaceuticals must comply with the land disposal restrictions of 40 C.F.R. Part 268.7(a) (as adopted by WAC 173-303-140 (2)(c) and(d)), except that it is not required to identify the dangerous waste numbers (i.e., dangerous waste codes) on the land disposal restrictions notification.

(h) Procedures for health care facilities for managing rejected shipments of noncreditable dangerous waste pharmaceuticals. A health care facility that sends a shipment of noncreditable dangerous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provision of WAC 173-303-370(5) may accumulate the returned noncreditable dangerous waste pharmaceuticals on-site for up to an additional ninety days provided the rejected or returned shipment is managed in accordance with (d) and (e) of this subsection. Upon receipt of the returned shipment, the health care facility must:

(i) Sign either:

(A) Item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(B) Item 20 on the new manifest, if a new manifest was used for the returned shipment;

(ii) Provide the transporter a copy of the manifest;

(iii) Within thirty days of receipt of the rejected shipment, send a copy of the manifest to the designated facility that returned the shipment to the health care facility; and

(iv) Within ninety days of receipt of the rejected shipment, transport or offer for transport the returned shipment in accordance with the shipping standard of subsection (9)(a) through (c) of this section.

(i) Annual reporting for health care facilities for noncreditable dangerous waste pharmaceuticals. Health care facilities are not subject to annual reporting requirements under WAC 173-303-220(1), with respect to noncreditable dangerous waste pharmaceuticals managed under this section.

(j) Exception reporting by health care facilities for a missing copy of the manifest in regard to noncreditable dangerous waste pharmaceuticals for shipments to a designated facility. If a health care facility does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within sixty days of the date the noncreditable dangerous waste pharmaceuticals were accepted by the initial transporter, the health care facility must submit:

(i) A legible copy of the original manifest, indicating that the health care facility has not received confirmation of delivery, to the department's regional office in which the health care facility is located; and

(ii) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the noncreditable dangerous waste pharmaceutical and the results of those efforts.

(k) Exception reporting by health care facilities for shipments rejected by the designated facility and shipped to an alternative facility in regard to noncreditable dangerous waste pharmaceuticals. If a health care facility does not receive a copy of the manifest for a rejected shipment of the noncreditable dangerous waste pharmaceuticals that is forwarded by the designated facility to an alternate facility (using appropriate manifest procedures), with the signature of the owner or operator of the alternate facility, within sixty days of the date the noncreditable dangerous waste pharmaceutical was accepted by the initial transporter forwarding the shipment of noncreditable dangerous waste pharmaceuticals from the designated facility to the alternate facility, the health care facility must submit:

(i) A legible copy of the original manifest, indicating that the health care facility has not received confirmation of delivery, to the department's regional office in which the health care facility is located; and

(ii) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the noncreditable dangerous waste pharmaceuticals and the results of those efforts.

(l) Additional reports by health care facilities in regard to noncreditable dangerous waste pharmaceuticals. The department may require the health care facilities to furnish additional reports concerning the quantities, types, and disposition of noncreditable dangerous waste pharmaceuticals.

(m) Recordkeeping by health care facilities for noncreditable dangerous waste pharmaceuticals. A health care facility must comply with WAC 173-303-210 and keep all records for five years in regards to noncreditable dangerous waste pharmaceuticals. The periods of retention referred to in

this paragraph are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the department. All records must be readily available upon request by an authorized state inspector.

(n) Response to spill of noncreditable dangerous waste pharmaceuticals at health care facilities. A health care facility must immediately contain all spills of noncreditable dangerous waste pharmaceuticals and manage the spill clean-up material as noncreditable dangerous waste pharmaceuticals in accordance with the requirements of this section.

(o) Accepting noncreditable dangerous waste pharmaceuticals from an off-site health care facility that is a small quantity generator. A health care facility may accept noncreditable dangerous waste pharmaceuticals from an off-site health care facility that is a small quantity generator under WAC 173-303-171, without a permit or without having interim status, provided the receiving health care facility:

(i) Is under the control of the same person (as defined in WAC 173-303-040) as the small quantity generator health care facility that is sending the noncreditable dangerous waste pharmaceuticals off-site or has a contractual or other documented business relationship whereby the receiving health care facility supplies pharmaceuticals to the small quantity generator health care facility;

(ii) Is operating under this section for the management of its noncreditable dangerous waste pharmaceuticals;

(iii) Manages the noncreditable dangerous waste pharmaceuticals that it receives from off-site in compliance with this section; and

(iv) Keeps records of the noncreditable dangerous waste pharmaceuticals shipments it receives from off-site for five years from the date the shipment is received.

(4) Standards for health care facilities managing potentially creditable dangerous waste pharmaceuticals.

(a) Dangerous waste determinations for potentially creditable pharmaceuticals. A health care facility that generates a solid waste that is a potentially creditable pharmaceutical must determine whether that potentially creditable pharmaceutical is a potentially creditable dangerous waste pharmaceutical. A health care facility may choose to manage its potentially creditable nondangerous waste pharmaceuticals as potentially creditable dangerous waste pharmaceutical under this section.

(b) Accepting potentially creditable dangerous waste pharmaceuticals from an off-site health care facility that is a small quantity generator. A health care facility may accept potentially creditable dangerous waste pharmaceuticals from an off-site health care facility that is a small quantity generator under WAC 173-303-171, without a permit or without having interim status, provided the receiving health care facility:

(i) Is under the control of the same person (as defined in WAC 173-303-040) as the small quantity generator health care facility that is sending the potentially creditable dangerous waste pharmaceuticals off-site or has a contractual or other documented business relationship whereby the receiving health care facility supplies pharmaceuticals to the small quantity generator health care facility;

(ii) Is operating under this section for the management of its potentially creditable dangerous waste pharmaceuticals;

(iii) Manages the potentially creditable dangerous waste pharmaceuticals that it receives from off-site in compliance with this section; and

(iv) Keeps records of the potentially creditable dangerous waste pharmaceuticals shipments it receives from off-site for five years from the date the shipment is received.

(c) Prohibition. Health care facilities are prohibited from sending dangerous waste other than potentially creditable dangerous waste pharmaceuticals to a reverse distributor.

(d) Annual reporting by health care facilities. Health care facilities are not subject to the annual reporting requirements of WAC 173-303-220(1), with respect to potentially creditable dangerous waste pharmaceuticals managed under this section.

(e) Recordkeeping by health care facilities.

(i) A health care facility that initiates a shipment of potentially creditable dangerous waste pharmaceuticals to a reverse distributor must keep the following records (paper or electronic) for each shipment of potentially creditable dangerous waste pharmaceuticals for five years from date of shipment:

(A) The confirmation of delivery; and

(B) The shipping papers prepared in accordance with 49 C.F.R. Part 172, Subpart C, if applicable.

(ii) The periods of retention referred to in this subsection are extended automatically during the course of any unresolved enforcement actions regarding the regulated activity, or as requested by the department.

(iii) All records must be readily available upon request by an authorized state inspector.

(f) Response to spill of potentially creditable dangerous waste pharmaceuticals at health care facilities. A health care facility must immediately contain all spills of potentially creditable dangerous waste pharmaceuticals and manage the spill clean-up material as noncreditable dangerous waste pharmaceuticals in accordance with the requirements of this section.

(5) Health care facilities that are small quantity generators for both dangerous waste pharmaceuticals and nonpharmaceutical dangerous waste.

(a) Potentially creditable dangerous waste pharmaceuticals. A health care facility that is a small quantity generator for both dangerous waste pharmaceuticals and nonpharmaceutical dangerous waste may send its potentially creditable dangerous waste pharmaceuticals to a reverse distributor.

(b) Off-site collection of dangerous waste pharmaceuticals generated by a health care facility that is a small quantity generator. A health care facility that is a small quantity generator for both dangerous waste pharmaceuticals and nonpharmaceutical dangerous waste may send its dangerous waste pharmaceuticals to another health care facility, provided:

(i) The receiving health care facility meets the conditions in subsections (3)(o) and (4)(b) of this section, as applicable; or

(ii) The small quantity generator health care facility meets the conditions in WAC 173-303-171 (1)(e)(ix) and the

receiving large quantity generator meets the conditions in WAC 173-303-200(15).

(c) Long-term care facilities that are small quantity generators. A long-term care facility that is a small quantity generator for both dangerous waste pharmaceuticals and non-pharmaceutical dangerous waste may dispose of its dangerous waste pharmaceuticals (excluding contaminated personal protection equipment or clean-up materials) in an on-site collection receptacle of an authorized collector (as defined by the Drug Enforcement Administration) that is registered with the Drug Enforcement Administration provided the contents are collected, stored, transported, destroyed, and disposed of in compliance with all applicable Drug Enforcement Administration regulations for controlled substances.

(6) Prohibition of sewerage dangerous waste pharmaceuticals. All health care facilities, including small quantity generators operating under WAC 173-303-171 in lieu of this section, and reverse distributors are prohibited from discharging dangerous waste pharmaceuticals to a sewer system that passes through to a publicly owned treatment works or to an on-site disposal system. Health care facilities and reverse distributors remain subject to the prohibitions in 40 C.F.R. 403.5(b) of the Clean Water Act.

(7) Conditional exemptions for dangerous waste pharmaceuticals that are also controlled substances and household waste pharmaceuticals collected in a take-back event or program.

(a) Conditional exemptions. Provided the conditions of (b) of this subsection are met, the following are exempt from this chapter except for WAC 173-303-050, 173-303-145, and 173-303-960:

(i) Dangerous waste pharmaceuticals that are also listed on a schedule of controlled substances by the Drug Enforcement Administration in 21 C.F.R. Part 1308; and

(ii) Household waste pharmaceuticals that are collected in a take-back event or program, including those that are collected by an authorized collector (as defined by the Drug Enforcement Administration) registered with the Drug Enforcement Administration that commingles the household waste pharmaceuticals with controlled substances from an ultimate user (as defined by the Drug Enforcement Administration).

(b) Conditions for exemption. The dangerous waste pharmaceuticals must be:

(i) Managed in compliance with the sewer prohibition of subsection (6) of this section; and

(ii) Collected, stored, transported, and disposed of in compliance with all applicable Drug Enforcement Administration regulations for controlled substances; and

(iii) Destroyed by a method that Drug Enforcement Administration has publicly deemed in writing to meet their nonretrievable standard of destruction or combusted at one of the following:

(A) A permitted large municipal waste combustor, subject to 40 C.F.R. Part 62, Subpart FFF or applicable state plan for existing large municipal waste combustors, or 40 C.F.R. Part 60, Subpart Eb for new large municipal waste combustors; or

(B) A permitted small municipal waste combustor, subject to 40 C.F.R. Part 62, Subpart JJJ or applicable state plan

for existing small municipal waste combustors, or 40 C.F.R. Part 60, Subparts AAAA for new small municipal waste combustors; or

(C) A permitted hospital, medical and infectious waste incinerator, subject to 40 C.F.R. Part 62, Subpart HHH or applicable state plan for existing hospital, medical and infectious waste incinerators, or 40 C.F.R. Part 60, Subpart Ec for new hospital, medical and infectious waste incinerators; or

(D) A permitted commercial and industrial solid waste incinerator, subject to 40 C.F.R. Part 62, Subpart III or applicable state plan for existing commercial and industrial solid waste incinerators, or 40 C.F.R. Part 60, Subpart CCCC for new commercial and industrial solid waste incinerators.

(E) A permitted dangerous (hazardous) waste combustor subject to 40 C.F.R. Part 63, Subpart EEE.

(8) Residues of dangerous waste pharmaceuticals in empty containers.

(a) Stock, dispensing and unit-dose containers. A stock bottle, dispensing bottle, vial, or ampule (not to exceed one liter or ten thousand pills); or a unit-dose container (e.g., a unit-dose packet, cup, wrapper, blister pack, or delivery device) is considered empty and the residues are not regulated as dangerous waste provided the pharmaceuticals have been removed from the stock bottle, dispensing bottle, vial, ampule, or the unit-dose container using the practices commonly employed to remove materials from that type of container.

(b) Syringes. A syringe is considered empty and the residues are not regulated as dangerous waste under this section provided the contents have been removed by fully depressing the plunger of the syringe. If a syringe is not empty, the syringe must be placed with its remaining dangerous waste pharmaceuticals into a container that is managed and disposed of as a noncreditable dangerous waste pharmaceutical under this section and any applicable federal, state, and local requirements for sharps containers and medical waste.

(c) Intravenous (IV) bags.

(i) An IV bag is considered empty and the residues are not regulated as dangerous waste provided the pharmaceuticals in the IV bag have been fully administered to a patient.

(ii) If an IV bag is not empty, the IV bag must be placed with its remaining dangerous waste pharmaceuticals into a container that is managed and disposed of as a noncreditable dangerous waste pharmaceutical under this section, unless the IV bag held nonacute dangerous waste pharmaceutical and is empty as defined in WAC 173-303-160 (2)(a).

(iii) If an IV bag is not empty and held an acute hazardous waste or a toxic EHW waste, the IV bag must be placed with its remaining dangerous waste pharmaceuticals into a container that is managed and disposed of as a noncreditable dangerous waste pharmaceutical under this section, unless the IV bag is empty as defined by WAC 173-303-160 (2)(b).

(d) Other containers, including delivery devices.

(i) Nonacute dangerous waste pharmaceuticals remaining in all other types of unused, partially administered, or fully administered containers must be managed as noncreditable dangerous waste pharmaceuticals under this section, unless the container that held nonacute dangerous waste pharmaceuticals is empty as defined in WAC 173-303-160 (2)(a). This includes, but is not limited to, residues in inhal-

ers, aerosol cans, nebulizers, tubes of ointments, gels, or creams.

(ii) Acute hazardous waste pharmaceuticals and toxic EHW dangerous waste pharmaceuticals remaining in all other types of unused, partially administered, or fully administered containers must be managed and disposed as noncreditable dangerous waste pharmaceuticals under this section, unless the container that held acute dangerous waste pharmaceuticals or toxic EHW dangerous waste pharmaceuticals is empty as defined in WAC 173-303-160 (2)(b). This includes, but is not limited to, residues in inhalers, aerosol cans, nebulizers, tubes of ointments, gels, or creams.

(9) Shipping noncreditable dangerous waste pharmaceuticals from a health care facility or evaluated dangerous waste pharmaceuticals from a reverse distributor.

(a) A health care facility must ship noncreditable dangerous waste pharmaceuticals and a reverse distributor must ship evaluated dangerous waste pharmaceuticals off-site to a designated facility (such as a permitted or interim status treatment, storage or disposal facility).

(i) The following pretransport requirements, before transporting or offering for transport off-site must be complied with:

(A) Packaging. Package the waste in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 C.F.R. Parts 173, 178, and 180.

(B) Labeling. Label each package in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 C.F.R. Part 172, Subpart E.

(C) Marking.

(I) Mark each package of dangerous waste pharmaceuticals in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 C.F.R. Part 172, Subpart D.

(II) Mark each container of one hundred nineteen gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 C.F.R. 172.304:

HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal.

If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency. Health care Facility's or Reverse distributor's Name and Address

Health care Facility's or Reverse distributor's EPA Identification Number

Manifest Tracking Number

(III) Labpacks. Labpacks that will be incinerated in compliance with 40 C.F.R. 268.42(c) are not required to be marked with dangerous waste number(s), except for D004, D005, D006, D007, D008, D010 and D011, where applicable. A nationally recognized electronic system, such as bar coding or radio frequency identification, may be used to identify the dangerous waste numbers.

(D) Placarding. Placard or offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 C.F.R. Part 172, Subpart F.

(ii) Manifesting. The health care facility and reverse distributor must comply with the manifest requirements of WAC 173-303-180, except that:

(A) A health care facility shipping noncreditable dangerous waste pharmaceuticals is not required to list all applicable dangerous waste numbers (i.e., dangerous waste codes) in Item 13 EPA Form 8700-22.

(B) A health care facility shipping noncreditable dangerous waste pharmaceuticals must write the word "PHRM" in Item 13 on EPA Form 8700-22.

(b) Exporting noncreditable dangerous waste pharmaceuticals or evaluated dangerous waste pharmaceuticals. A health care facility or reverse distributor that exports noncreditable dangerous waste pharmaceuticals or evaluated dangerous waste pharmaceuticals is subject to WAC 173-303-230(1).

(c) Importing noncreditable dangerous waste pharmaceuticals or evaluated dangerous waste pharmaceuticals. Any person that imports noncreditable dangerous waste pharmaceuticals or evaluated dangerous waste pharmaceuticals is subject to WAC 173-303-230(2) and 40 C.F.R. Part 262, Subpart H. A health care facility or reverse distributor may not accept imported noncreditable dangerous waste pharmaceuticals or evaluated dangerous waste pharmaceuticals unless they have a permit or interim status that allow them to accept dangerous waste from off-site.

(10) Disposal of state-only dangerous waste pharmaceuticals.

(a) As an alternative to off-site disposal at a designated facility (such as a permitted or interim status treatment, storage, or disposal facility) state-only dangerous waste pharmaceuticals may be disposed at one of the following types of units provided (b) through (d) of this subsection are complied with:

(i) A combustor or incinerator listed in subsection (7)(b)(iii)(A) through (E) of this section; or

(ii) As an option for law enforcement agencies, incinerate in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour, and a combustion zone temperature greater than 1500 degrees Fahrenheit.

(b) The state-only dangerous waste pharmaceuticals are managed in compliance with all applicable requirements of this section.

(c) If a uniform hazardous waste manifest is not being used, a document must accompany the state-only noncreditable dangerous waste pharmaceuticals during transit which:

(i) Identifies the type and amount of state-only noncreditable dangerous waste pharmaceuticals;

(ii) The date of shipment;

(iii) The identity of the health care facility or reverse distributor; and

(iv) The facility to which it is directed.

(d) The health care facility or reverse distributor has on file a letter or copy of a letter signed by the local regulatory

or permitting authority that the receiving incinerator or combustion facility may accept the waste.

(11) Shipping potentially creditable dangerous waste pharmaceuticals from a health care facility or reverse distributor to a reverse distributor.

(a) Shipping potentially creditable dangerous waste pharmaceuticals. A health care facility or a reverse distributor who transports or offers for transport potentially creditable dangerous waste pharmaceuticals off-site to a reverse distributor must comply with all applicable U.S. Department of Transportation regulations in 49 C.F.R. Parts 171 through 180 for any potentially creditable dangerous waste pharmaceutical that meets the definition of hazardous materials in 49 C.F.R. 171.8.

(b) Delivery confirmation. Upon receipt of each shipment of potentially creditable dangerous waste pharmaceuticals, the receiving reverse distributor must provide confirmation (paper or electronic) to the health care facility or reverse distributor that initiated the shipment that the shipment of potentially creditable dangerous waste pharmaceuticals has arrived at its destination and is under the custody and control of the reverse distributor.

(c) Procedures for when delivery confirmation is not received within thirty-five calendar days. If a health care facility or reverse distributor initiates a shipment of potentially creditable dangerous waste pharmaceuticals to a reverse distributor and does not receive delivery confirmation within thirty-five calendar days from the date that the shipment of potentially creditable dangerous waste pharmaceuticals was sent, the health care facility or reverse distributor that initiated the shipment must contact the carrier and the intended recipient (i.e., the reverse distributor) promptly to report that the delivery confirmation was not received and to determine the status of the potentially creditable dangerous waste pharmaceuticals.

(d) Exporting potentially creditable dangerous waste pharmaceuticals. A health care facility or reverse distributor that sends potentially creditable dangerous waste pharmaceuticals to a foreign destination must comply with WAC 173-303-230(1) in addition to (a) through (c) of this subsection.

(e) Importing potentially creditable dangerous waste pharmaceuticals. Any person that imports potentially creditable dangerous waste pharmaceuticals into the United States is subject to (a) through (c) of this subsection in lieu of WAC 173-303-230(2). Immediately after potentially creditable dangerous waste pharmaceuticals enter the United States, they are subject to all applicable requirements of this section.

(12) Standards for reverse distributors managing potentially creditable dangerous waste pharmaceuticals and evaluated dangerous waste pharmaceuticals. A reverse distributor may accept potentially creditable dangerous waste pharmaceuticals from off-site (not evaluated dangerous waste pharmaceuticals from off-site) and accumulate potentially creditable dangerous waste pharmaceuticals and evaluated dangerous waste pharmaceuticals on-site without a dangerous waste permit or interim status, provided that it complies with the requirements of subsections (13) through (15) of this section and with the following conditions.

(a) Notification.

(i) A reverse distributor that already has an EPA/state identification number must notify the department, using the Washington State Dangerous Waste Site Identification Form, that it is a reverse distributor (as defined in subsection (1) of this section) operating under this section, within sixty days of the effective date of this section, or within sixty days of becoming subject to this section.

(ii) A reverse distributor that does not have an EPA/state identification number must obtain one by notifying the department, using the Washington State Dangerous Waste Site Identification Form, that it is a reverse distributor (as defined in subsection (1) of this section) operating under this section, within sixty days of the effective date of this section, or within sixty days of becoming subject to this section.

(b) Inventory by the reverse distributor. A reverse distributor must maintain a current inventory of all the potentially creditable dangerous waste pharmaceuticals and evaluated dangerous waste pharmaceuticals that are accumulated on-site.

(i) A reverse distributor must inventory each potentially creditable dangerous waste pharmaceutical within thirty calendar days of each waste arriving at the reverse distributor.

(ii) The inventory must include the identity (e.g., name or national drug code) and quantity of each potentially creditable dangerous waste pharmaceutical and evaluated dangerous waste pharmaceutical.

(iii) If the reverse distributor already meets the inventory requirements of this paragraph because of other regulatory requirements, such as state board of pharmacy regulations, the facility is not required to provide a separate inventory pursuant to this subsection.

(c) Evaluation by a reverse distributor that is not a manufacturer. A reverse distributor that is not a pharmaceutical manufacturer must evaluate potentially creditable dangerous waste pharmaceutical within thirty calendar days of the waste arriving at the reverse distributor to establish whether it is destined for another reverse distributor for further evaluation or verification of manufacturer credit or for a permitted or interim status treatment storage or disposal facility.

(i) A potentially creditable dangerous waste pharmaceutical that is destined for another reverse distributor is still considered a "potentially creditable dangerous waste pharmaceutical" and must be managed in accordance with the requirements of subsection (13) of this section in addition to the requirements of this subsection.

(ii) A potentially creditable dangerous waste pharmaceutical that is destined for a permitted or interim status treatment, storage or disposal facility is considered an "evaluated dangerous waste pharmaceutical" and must be managed in accordance with the requirements of subsection (14) of this section in addition to the requirements of this subsection.

(d) Evaluation by a reverse distributor that is a manufacturer. A reverse distributor that is a pharmaceutical manufacturer must evaluate a potentially creditable dangerous waste pharmaceutical to verify manufacturer credit within thirty calendar days of the waste arriving at the facility and following the evaluation must manage the evaluated dangerous waste pharmaceutical in accordance with the requirements of subsection (14) of this section in addition to the requirements of this subsection.

(e) Maximum accumulation time for dangerous waste pharmaceuticals at a reverse distributor.

(i) A reverse distributor may accumulate potentially creditable dangerous waste pharmaceuticals and evaluated dangerous waste pharmaceuticals on-site for one hundred eighty calendar days or less. The one hundred eighty days start after the potentially creditable dangerous waste pharmaceuticals have been evaluated and applies to all dangerous waste pharmaceuticals accumulated on-site, regardless of whether they are destined for another reverse distributor (i.e., potentially creditable dangerous waste pharmaceuticals) or a permitted or interim status treatment, storage, or disposal facility (i.e., evaluated dangerous waste pharmaceuticals).

(ii) Aging pharmaceuticals. Unexpired pharmaceuticals that are otherwise creditable but are awaiting their expiration date (i.e., aging in a holding morgue) can be accumulated for up to one hundred eighty days after the expiration date, provided that the unexpired pharmaceuticals are managed in accordance with (a) through (j) of this subsection and the container labeling and management standards in subsection (14)(d)(i) through (vi) of this section.

(f) Security at the reverse distributor facility. A reverse distributor must prevent unknowing entry and minimize the possibility for the unauthorized entry into the portion of the facility where potentially creditable dangerous waste pharmaceuticals and evaluated dangerous waste pharmaceuticals are kept.

(i) Examples of methods that may be used to prevent unknowing entry and minimize the possibility for unauthorized entry include, but are not limited to:

(A) A twenty-four-hour continuous monitoring surveillance system;

(B) An artificial barrier such as a fence; or

(C) A means to control entry, such as keycard access.

(ii) If the reverse distributor already meets the security requirements of this paragraph because of other regulatory requirements, such as Drug Enforcement Administration or state board of pharmacy regulations, the facility is not required to provide separate security measures pursuant to this subsection.

(g) Contingency plan and emergency procedures at a reverse distributor. A reverse distributor that accepts potentially creditable dangerous waste pharmaceuticals from off-site must prepare a contingency plan and comply with other requirements of WAC 172-303-201.

(h) Closure of a reverse distributor. When closing an area where a reverse distributor accumulates potentially creditable dangerous waste pharmaceuticals or evaluated dangerous waste pharmaceuticals, the reverse distributor must comply with WAC 173-303-200 (12)(a) through (c).

(i) Reporting by a reverse distributor.

(i) Unauthorized waste report. A reverse distributor must submit an unauthorized waste report if the reverse distributor receives waste from off-site that it is not authorized to receive (e.g., nonpharmaceutical dangerous waste, regulated medical waste). The reverse distributor must prepare and submit an unauthorized waste report to the department's regional office it is located in within forty-five calendar days after the unauthorized waste arrives at the reverse distributor and must send a copy of the unauthorized waste report to the health care

facility (or other entity) that sent the unauthorized waste. The reverse distributor must manage the unauthorized waste in accordance with all applicable regulations. The unauthorized waste report must be signed by the owner or operator of the reverse distributor and contain the following information:

(A) The EPA/state identification number, name and address of the reverse distributor;

(B) The date the reverse distributor received the unauthorized waste;

(C) The EPA/state identification number, name and address of the health care facility that shipped the unauthorized waste, if available;

(D) A description and the quantity of each unauthorized waste the reverse distributor received;

(E) The method of treatment, storage, or disposal for each unauthorized waste; and

(F) A brief explanation of why the waste was unauthorized, if known.

(ii) Additional reports. The department may require reverse distributors to furnish additional reports and documents of potentially creditable dangerous waste pharmaceuticals and evaluated dangerous waste pharmaceuticals.

(j) Recordkeeping by reverse distributors. A reverse distributor must keep the following records (paper or electronic) readily available upon request by an inspector. The periods of retention referred to in this subsection are extended automatically during the course of any unresolved enforcement actions regarding the regulated activity, or as requested by the department.

(i) A copy of its notification on file for as long as the facility is subject to this section;

(ii) A copy of the delivery confirmation and the shipping papers for each shipment of potentially creditable dangerous waste pharmaceuticals that it receives, and a copy of each unauthorized waste report, for at least five years from the date the shipment arrives at the reverse distributor;

(iii) A copy of its current inventory for as long as the facility is subject to this section.

(13) Additional standards for reverse distributors managing potentially creditable dangerous waste pharmaceuticals destined for another reverse distributor. A reverse distributor that does not have a permit or interim status must comply with the following conditions, in addition to the requirements of subsection (12) of this section, for the management of potentially creditable dangerous waste pharmaceuticals that are destined for another reverse distributor for further evaluation or verification of manufacturer credit:

(a) A reverse distributor that receives potentially creditable dangerous waste pharmaceuticals from a health care facility must send those potentially creditable dangerous waste pharmaceuticals to another reverse distributor within one hundred eighty days after the potentially creditable dangerous waste pharmaceuticals have been evaluated or follow subsection (14) of this section for evaluated dangerous waste pharmaceuticals.

(b) A reverse distributor that receives potentially creditable dangerous waste pharmaceuticals from another reverse distributor must send those potentially creditable dangerous waste pharmaceuticals to a reverse distributor that is a pharmaceutical manufacturer within one hundred eighty days

after the potentially creditable dangerous waste pharmaceuticals have been evaluated or follow subsection (14) of this section for evaluated dangerous waste pharmaceuticals.

(c) A reverse distributor must ship potentially creditable dangerous waste pharmaceuticals destined for another reverse distributor in accordance with subsection (11) of this section.

(d) Recordkeeping by reverse distributors. A reverse distributor must keep the following records (paper or electronic) readily available upon request by an inspector for each shipment of potentially creditable dangerous waste pharmaceuticals that it initiates to another reverse distributor, for at least five years from the date of shipment. The periods of retention referred to in this subsection are extended automatically during the course of any unresolved, enforcement actions regarding the regulated activity, or as requested by the department.

(i) The confirmation of delivery; and

(ii) The DOT shipping papers prepared in accordance with 49 C.F.R. Part 172, Subpart C, if applicable.

(14) Additional standards for reverse distributors managing evaluated dangerous waste pharmaceuticals. A reverse distributor that does not have a permit or interim status must comply with the following conditions, in addition to the requirements of subsection (12) of this section, for the management of evaluated dangerous waste pharmaceuticals:

(a) Accumulation area at the reverse distributor. A reverse distributor must designate an on-site accumulation area where it will accumulate evaluated dangerous waste pharmaceuticals.

(b) Inspections of on-site accumulation area. A reverse distributor must inspect its on-site accumulation area at least once every seven days, looking at containers for leaks and for deterioration caused by corrosion or other factors, as well as for signs of diversion.

(c) Personnel training at a reverse distributor. Personnel at a reverse distributor that handle evaluated dangerous waste pharmaceuticals are subject to the training requirements of WAC 173-303-200(9).

(d) Labeling and management of containers at on-site accumulation areas. A reverse distributor accumulating evaluated dangerous waste pharmaceuticals in containers in an on-site accumulation area must:

(i) Label the containers with the words, "hazardous waste pharmaceuticals" or "dangerous waste pharmaceuticals";

(ii) Ensure the containers are in good condition and managed to prevent leaks;

(iii) Use containers that are made of or lined with materials which will not react with, and are otherwise compatible with, the evaluated dangerous waste pharmaceuticals, so that the ability of the container to contain the waste is not impaired;

(iv) Keep containers closed, if holding liquid or gel evaluated dangerous waste pharmaceuticals. If the liquid or gel evaluated dangerous waste pharmaceuticals are in their original, intact, sealed packaging; or repackaged, intact, sealed packaging, they are considered to meet the closed container standard;

(v) Manage any container of ignitable or reactive evaluated dangerous waste pharmaceuticals, or any container of commingled incompatible evaluated dangerous waste pharmaceuticals so that the container does not have the potential to:

(A) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(B) Produce uncontrolled toxic mists, fumes, dusts, or gas in sufficient quantities to threaten human health;

(C) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(D) Damage the structural integrity of the container of dangerous waste pharmaceuticals; or

(E) Through other like means threaten human health or the environment; and

(vi) Accumulate evaluated dangerous waste pharmaceuticals that are prohibited from being combusted because of the dilution prohibition of 40 C.F.R. 268.3(c) (e.g., arsenic trioxide (P012)) in separate containers from other evaluated dangerous waste pharmaceuticals at the reverse distributor.

(e) Dangerous waste numbers. Prior to shipping evaluated dangerous waste pharmaceuticals off-site, all containers must be marked with the applicable dangerous waste numbers (i.e., dangerous waste codes). A nationally recognized electronic system, such as bar coding or radio frequency identification, may be used to identify the dangerous waste number(s).

(f) Shipments. A reverse distributor must ship evaluated dangerous waste pharmaceuticals that are destined for a permitted or interim status treatment, storage or disposal facility with the applicable shipping standards in subsection (9)(a) or (b) of this section.

(g) Procedures for a reverse distributor for managing rejected shipments. A reverse distributor that sends a shipment of evaluated dangerous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provision of WAC 173-303-370(5), may accumulate the evaluated dangerous waste pharmaceuticals on-site for up to an additional ninety days in the on-site accumulation area provided the rejected or returned shipment is managed in accordance with subsection (12) of this section and the requirements of this subsection. Upon receipt of the returned shipment, the reverse distributor must:

(i) Sign either:

(A) Item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(B) Item 20 of the new manifest, if a new manifest was used for the returned shipment;

(ii) Provide the transporter a copy of the manifest;

(iii) Within thirty days of receipt of the rejected shipment of the evaluated dangerous waste pharmaceuticals, send a copy of the manifest to the designated facility that returned the shipment to the reverse distributor; and

(iv) Within ninety days of receipt of the rejected shipment, transport or offer for transport the returned shipment of evaluated dangerous waste pharmaceuticals in accordance with the applicable shipping standards of subsection (9)(a) or (b) of this section.

(h) Land disposal restrictions. Evaluated dangerous waste pharmaceuticals are subject to the land disposal restrictions of 40 C.F.R. Part 268. A reverse distributor that accepts potentially creditable dangerous waste pharmaceuticals from off-site must comply with the land disposal restrictions in accordance with 40 C.F.R. Part 268.7(a) requirements, as adopted by WAC 173-303-140 (2)(c) and (d).

(i) Annual reporting by a reverse distributor for evaluated dangerous waste pharmaceuticals. A reverse distributor that ships evaluated dangerous waste pharmaceuticals off-site must prepare and submit an annual report to the department, according to the instructions on the Dangerous Waste Annual Report form, no later than March 1st for the preceding calendar year.

(j) Exception reporting by a reverse distributor for a missing copy of the manifest.

(i) For shipments from a reverse distributor to a designated facility.

(A) If a reverse distributor does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within thirty-five days of the date the evaluated dangerous waste pharmaceuticals were accepted by the initial transporter, the reverse distributor must contact the transporter or the owner or operator of the designated facility to determine the status of the evaluated dangerous waste pharmaceuticals.

(B) A reverse distributor must submit an exception report to the department's regional office in which the reverse distributor is located if it has not received a copy of the manifest with the signature of the owner or operator of the designated facility within forty-five days of the date the evaluated dangerous waste pharmaceutical was accepted by the initial transporter. The exception report must include:

(I) A legible copy of the manifest for which the reverse distributor does not have confirmation of delivery; and

(II) A cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated dangerous waste pharmaceutical and the results of those efforts.

(ii) For shipments rejected by the designated facility and shipped to an alternate facility.

(A) A reverse distributor that does not receive a copy of the manifest with the signature of the owner or operator of the alternate facility within thirty-five days of the date the evaluated dangerous waste pharmaceuticals were accepted by the initial transporter must contact the transporter or the owner or operator of the alternate facility to determine the status of the dangerous waste. The thirty-five-day time frame begins the date the evaluated dangerous waste pharmaceuticals are accepted by the transporter forwarding the dangerous waste shipment from the designated facility to the alternate facility.

(B) A reverse distributor must submit an exception report to the department's regional office in which the reverse distributor is located if it has not received a copy of the manifest with the signature of the owner or operator of the designated facility within forty-five days of the date the evaluated dangerous waste pharmaceutical were accepted by the initial transporter. The forty-five-day time frame begins the date the evaluated dangerous waste pharmaceuticals are accepted by the transporter forwarding the dangerous waste shipment

from the designated facility to the alternate facility. The exception report must include:

(I) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(II) A cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated dangerous waste pharmaceutical and the results of those efforts.

(k) Recordkeeping by a reverse distributor for evaluated dangerous waste pharmaceuticals.

(i) A reverse distributor must keep a log (written or electronic) of the inspections of the on-site accumulation area, as required by (b) of this subsection. This log must be retained as a record for at least five years from the date of the inspection.

(ii) A reverse distributor must keep a copy of each manifest signed in accordance with WAC 173-303-180 (3)(a) for five years or until it receives a signed copy from the designated facility that received the evaluated dangerous waste pharmaceutical. This signed copy must be retained as a record for at least five years from the date the evaluated dangerous waste pharmaceutical was accepted by the initial transporter.

(iii) A reverse distributor must keep a copy of each annual report for at least five years from the due date of the report.

(iv) A reverse distributor must keep a copy of each exception report for at least five years from the submission of the report.

(v) A reverse distributor must keep records to document personnel training, in accordance with WAC 173-303-200 (9)(b).

(vi) All records must be readily available upon request by an inspector. The periods of retention referred to in this subsection are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as required by the department.

(15) When a reverse distributor must have a permit. A reverse distributor is an operator of a dangerous waste treatment, storage, or disposal facility and is subject to the requirements of WAC 173-303-600 and the permit requirements of WAC 173-303-800 if the reverse distributor:

(i) Does not meet the conditions of subsections (12) through (15) of this section;

(ii) Accepts manifested dangerous waste from off-site; or

(iii) Treats or disposes of dangerous waste pharmaceuticals on-site.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-573 Standards for universal waste management. (1) Scope.

(a) This section establishes requirements for managing the following:

(i) Batteries as described in subsection (2) of this section;

(ii) Mercury-containing equipment as described in subsection (3) of this section; and

(iii) Lamps as described in subsection (5) of this section.

(b) This section provides an alternative set of management standards in lieu of regulation under the rest of this chapter except for WAC 173-303-050, 173-303-145, and 173-303-960.

(2) Applicability - Batteries.

(a) Batteries covered under this section.

(i) The requirements of this section apply to persons managing batteries, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(ii) Spent lead-acid batteries which are not managed under WAC 173-303-120 (3)(f) and 173-303-520, are subject to management under this section.

(b) Batteries not covered under this section. The requirements of this section do not apply to persons managing the following batteries:

(i) Spent lead-acid batteries that are managed under WAC 173-303-120(3) and 173-303-520.

(ii) Batteries, as described in WAC 173-303-040, that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070, including those that do not meet the criteria for waste generation in (c) of this subsection.

(iii) Batteries, as described in WAC 173-303-040, that are not dangerous waste. A battery is a dangerous waste if it exhibits one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100.

(c) Generation of waste batteries.

(i) A used battery becomes a waste on the date it is discarded (for example, when sent for reclamation).

(ii) An unused battery becomes a waste on the date the handler decides to discard it.

(3) Applicability - Mercury-containing equipment.

(a) Mercury-containing equipment covered under this section. The requirements of this section apply to persons managing mercury-containing equipment, as described in WAC 173-303-040, except those listed in (b) of this subsection.

(b) Mercury-containing equipment not covered under this section. The requirements of this section do not apply to persons managing the following mercury-containing equipment:

(i) Mercury-containing equipment that is not yet a waste under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when mercury-containing equipment becomes a waste;

(ii) Mercury-containing equipment that is not a dangerous waste. Mercury-containing equipment is a dangerous waste if it exhibits one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100; and

(iii) Equipment and devices from which the mercury-containing components have been removed.

(c) Generation of waste mercury-containing equipment.

(i) Used mercury-containing equipment becomes a waste on the date it is discarded.

(ii) Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

(4) (Reserved.)

(5) Applicability - Lamps.

(a) Lamps covered under this section. The requirements of this section apply to persons managing lamps, as described

in WAC 173-303-040, except those listed in (b) of this subsection.

(b) Lamps not covered under this section. The requirements of this section do not apply to persons managing the following lamps:

(i) Lamps that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when lamps become wastes.

(ii) Lamps that are not dangerous waste. Lamps that do not exhibit one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100 are not dangerous waste.

(c) Generation of waste lamps.

(i) A used lamp becomes a waste on the date it is discarded.

(ii) An unused lamp becomes a waste on the date the handler decides to discard it.

(6) Applicability - Small quantity handlers of universal waste. Subsections (6) through (16) of this section apply to small quantity handlers of universal waste (as defined in WAC 173-303-040).

(7) Prohibitions.

A small quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (13) of this section; or by managing specific wastes as provided in subsection (9) of this section.

(8) Notification.

A small quantity handler of universal waste is not required to notify the department of universal waste handling activities.

(9) Waste management.

(a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

(A) Sorting batteries by type;

(B) Mixing battery types in one container;

(C) Discharging batteries so as to remove the electric charge;

(D) Regenerating used batteries;

(E) Disassembling batteries or battery packs into individual batteries or cells;

(F) Removing batteries from consumer products; or

(G) Removing electrolyte from batteries.

(iii) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100.

(A) If the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it is subject to all applicable requirements of this chapter. The handler is considered the generator of the dangerous electrolyte and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(B) If the electrolyte or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste mercury-containing equipment. A small quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with noncontained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(ii) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(A) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(B) Removes the ampules only over or in a containment device (for example, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(C) Ensures that a mercury cleanup system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that meets the requirements of WAC 173-303-200;

(D) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of WAC 173-303-200;

(E) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(F) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(G) Stores removed ampules in closed, nonleaking containers that are in good condition;

(H) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(iii) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(A) Immediately seals the original housing holding the mercury with an airtight seal to prevent the release of any mercury to the environment; and

(B) Follows all requirements for removing ampules and managing removed ampules under (b)(ii) of this subsection; and

(iv)(A) A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100:

(I) Mercury or cleanup residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (for example, the remaining mercury-containing device).

(B) If the mercury, residues, and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it subject to WAC 173-303-170 through 173-303-230.

(C) If the mercury, residues, and/or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(c) Universal waste lamps. A small quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(ii) A small quantity handler of universal waste must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A small quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents the container from being exposed to the elements.

(10) **Labeling/marketing.**

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (that is, each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b)(i) Universal waste mercury-containing equipment (that is, each device), or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste Mercury-Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(ii) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(c) Universal waste lamps (that is, each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(11) Accumulation time limits.

(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (b) of this subsection are met.

(b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(ii) Marking or labeling each individual item of universal waste (for example, each battery, thermostat, mercury-containing equipment, or lamp) with the date it became a waste or was received;

(iii) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

(iv) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of

universal waste items or a group of containers of universal waste became a waste or was received;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(12) Employee training.

A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

(13) Response to releases.

(a) A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste must determine whether any material resulting from the release is dangerous waste, and if so, must manage the dangerous waste in compliance with all applicable requirements of this chapter. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with WAC 173-303-170 through 173-303-230.

(14) Off-site shipments.

(a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self-transportes universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subsections (28) through (34) of this section while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 C.F.R. Parts 171 through 180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 C.F.R. Parts 172 through 180.

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(i) Receive the waste back when notified that the shipment has been rejected, or

(ii) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that they have received from another handler. If a handler rejects a shipment or a por-

tion of a shipment, they must contact the originating handler to notify them of the rejection and to discuss reshipment of the load. The handler must:

- (i) Send the shipment back to the originating handler; or
- (ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing dangerous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the dangerous waste.

(h) If a small quantity handler of universal waste receives a shipment of nondangerous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(15) Tracking universal waste shipments.

A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

(16) Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of 40 C.F.R. Part 262, Subpart H which is incorporated by reference at WAC 173-303-230.

(17) Applicability - Large quantity handlers of universal waste.

Subsections (17) through (27) of this section apply to large quantity handlers of universal waste (as defined in WAC 173-303-040).

(18) Prohibitions.

A large quantity handler of universal waste is:

- (a) Prohibited from disposing of universal waste; and
- (b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (24) of this section; or by managing specific wastes as provided in subsection (20) of this section.

(19) Notification.

(a)(i) Except as provided in (a)(ii) of this subsection, a large quantity handler of universal waste must have sent written notification of universal waste management to the department, and received an EPA Identification Number, before meeting or exceeding the 11,000 pound storage limit and/or before meeting or exceeding the 2,200 pound storage limit for lamps.

(ii) A large quantity handler of universal waste who has already notified the department of their dangerous waste management activities and has received an EPA Identification Number is not required to renotify under this section.

(b) This notification must include:

- (i) The universal waste handler's name and mailing address;
- (ii) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
- (iii) The address or physical location of the universal waste management activities;

(iv) A list of all of the types of universal waste managed by the handler (for example, batteries, mercury-containing equipment, and lamps); and

(v) A statement indicating that the handler is accumulating more than 11,000 pounds of universal waste at one time, and/or a statement indicating that the handler is accumulating more than 2,200 pounds of lamps at one time. (For example, if a handler is accumulating 6,000 pounds of batteries, 4,500 pounds of mercury-containing equipment and 600 pounds of universal waste lamps, they would notify for having 11,100 pounds of universal waste at one time - Likewise, if a handler is accumulating 6,000 pounds of batteries, 2,000 pounds of mercury-containing equipment and 2,400 pounds of universal waste lamps, they would also need to notify for exceeding the 2,200 pound limit for universal waste lamps.)

(20) Waste management.

(a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

- (A) Sorting batteries by type;
- (B) Mixing battery types in one container;
- (C) Discharging batteries so as to remove the electric charge;
- (D) Regenerating used batteries;
- (E) Disassembling batteries or battery packs into individual batteries or cells;
- (F) Removing batteries from consumer products; or
- (G) Removing electrolyte from batteries.

(iii) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100.

(A) If the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the dangerous electrolyte and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(B) If the electrolyte or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste mercury-containing equipment. A large quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with noncontained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(ii) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(A) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(B) Removes ampules only over or in a containment device (for example, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(C) Ensures that a mercury cleanup system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules, from that containment device to a container that meets the requirements of WAC 173-303-200;

(D) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of WAC 173-303-200;

(E) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(F) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(G) Stores removed ampules in closed, nonleaking containers that are in good condition;

(H) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

(iii) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(A) Immediately seals the original housing holding the mercury with an airtight seal to prevent the release of any mercury to the environment; and

(B) Follows all requirements for removing ampules and managing removed ampules under (b)(ii) of this subsection; and

(iv)(A) A large quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing

equipment in its original housing must determine whether the following exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100:

(I) Mercury or cleanup residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (for example, the remaining mercury-containing device).

(B) If the mercury, residues, and/or other solid waste exhibits a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it in compliance with WAC 173-303-170 through 173-303-230.

(C) If the mercury, residues, and/or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(c) Universal waste lamps. A large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(ii) A large quantity handler of universal waste must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A large quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents a container from being exposed to the elements.

(21) Labeling/markings.

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (that is, each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b)(i) Mercury-containing equipment (that is, each device), or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(ii) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of

the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(c) Universal waste lamp (that is, each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(22) Accumulation time limits.

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (b) of this subsection are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(ii) Marking or labeling the individual item of universal waste (for example, each battery, thermostat, mercury-containing equipment, or lamp) with the date it became a waste or was received;

(iii) Maintaining an inventory system on site that identifies the date the universal waste being accumulated became a waste or was received;

(iv) Maintaining an inventory system on site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(23) Employee training.

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

(24) Response to releases.

(a) A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste must determine whether any material resulting from the release is

dangerous waste, and if so, must manage the dangerous waste in compliance with all applicable requirements of this chapter. The handler is considered the generator of the material resulting from the release, and is subject to WAC 173-303-145 and 173-303-170 through 173-303-230.

(25) Off-site shipments.

(a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self-transportes universal waste off site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subsections (28) through (34) of this section while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 C.F.R. 171 through 180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 C.F.R. Parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:

(i) Receive the waste back when notified that the shipment has been rejected; or

(ii) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that they have received from another handler. If a handler rejects a shipment or a portion of a shipment, they must contact the originating handler to notify them of the rejection and to discuss reshipment of the load. The handler must:

(i) Send the shipment back to the originating handler; or

(ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a large quantity handler of universal waste receives a shipment containing dangerous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the dangerous waste.

(h) If a large quantity handler of universal waste receives a shipment of nondangerous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(26) Tracking universal waste shipments.

(a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form

of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received must include the following information:

(i) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received (for example, batteries, thermostats, mercury-containing equipment, or lamps);

(iii) The date of receipt of the shipment of universal waste.

(b) Shipments off site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste sent must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;

(ii) The quantity of each type of universal waste sent (for example, batteries, thermostats, mercury-containing equipment, or lamps);

(iii) The date the shipment of universal waste left the facility.

(c) Record retention.

(i) A large quantity handler of universal waste must retain the records described in (a) of this subsection for at least three years from the date of receipt of a shipment of universal waste.

(ii) A large quantity handler of universal waste must retain the records described in (b) of this subsection for at least three years from the date a shipment of universal waste left the facility.

(27) Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of 40 C.F.R. Part 262, Subpart H which is incorporated by reference at WAC 173-303-230.

(28) Applicability - Universal waste transporters. Subsections (28) through (34) of this section apply to universal waste transporters (as defined in WAC 173-303-040).

(29) Prohibitions.

A universal waste transporter is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (32) of this section.

(30) Waste management.

(a) A universal waste transporter must comply with all applicable U.S. Department of Transportation regulations in 49 C.F.R. Part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 C.F.R. 171.8. For purposes of the Department of Transportation regulations, a material is considered a dangerous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in WAC 173-303-180. Because universal waste does not

require a dangerous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.

(b) Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 C.F.R. 173.2. As universal waste shipments do not require a manifest under WAC 173-303-180, they may not be described by the DOT proper shipping name "hazardous waste, (l) or (s), n.o.s.," nor may the hazardous material's proper shipping name be modified by adding the word "waste."

(31) Storage time limits.

(a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.

(b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements for small or large quantity handlers (subsections (6) through (27) of this section) while storing the universal waste.

(32) Response to releases.

(a) A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A universal waste transporter must determine whether any material resulting from the release is dangerous waste, and if so, it is subject to all applicable requirements of this chapter. If the waste is determined to be a dangerous waste, the transporter is subject to WAC 173-303-145 and 173-303-170 through 173-303-230.

(33) Off-site shipments.

(a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off site meets the Department of Transportation's definition of hazardous materials under 49 C.F.R. 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable Department of Transportation regulations under 49 C.F.R. Part 172.

(34) Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of 40 C.F.R. Part 262, Subpart H which is incorporated by reference at WAC 173-303-230.

(35) Applicability - Destination facilities. Subsections (35) through (37) of this section apply to destination facilities.

(a) The owner or operator of a destination facility (as defined in WAC 173-303-040) is subject to all applicable requirements of WAC 173-303-140 and 173-303-141, 173-303-280 through 173-303-525, 173-303-600 through 173-303-695, 173-303-800 through 173-303-840, and the notification requirement at WAC 173-303-060; or

(b) The owner or operator of a destination facility that recycles a particular universal waste without storing that uni-

versal waste before it is recycled must comply with WAC 173-303-120 (4)(c).

(36) Off-site shipments.

(a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, they must contact the shipper to notify them of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

(i) Send the shipment back to the original shipper; or

(ii) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(c) If the owner or operator of a destination facility receives a shipment containing dangerous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the shipper. The department will provide instructions for managing the dangerous waste.

(d) If the owner or operator of a destination facility receives a shipment of nondangerous, nonuniversal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations.

(37) Tracking universal waste shipments.

(a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received must include the following information:

(i) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;

(ii) The quantity of each type of universal waste received (for example, batteries, thermostats, mercury-containing equipment, or lamps);

(iii) The date of receipt of the shipment of universal waste.

(b) The owner or operator of a destination facility must retain the records described in (a) of this subsection for at least three years from the date of receipt of a shipment of universal waste.

(38) Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of 40 C.F.R. Part 262, Subpart H (as incorporated by reference at WAC 173-303-230) and of this section, immediately after the waste enters the United States, as indicated in (a) through (c) of this subsection:

(a) A universal waste transporter is subject to the universal waste transporter requirements of subsections (28) through (34) of this section.

(b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of subsections (6) through (27) of this section, as applicable.

(c) An owner or operator of a destination facility is subject to the destination facility requirements of subsections (35) through (37) of this section.

(39) General - Petitions. Subsections (39) and (40) of this section address petitions to include other wastes under this section.

(a) Except as provided in (d) of this subsection, any person seeking to add a dangerous waste or a category of dangerous waste to this section may petition for a regulatory amendment under subsections (39) and (40) of this section and WAC 173-303-910 (1) and (7).

(b) To be successful, the petitioner must demonstrate to the satisfaction of the department that regulation under the universal waste regulations of this section is: Appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the dangerous waste program. The petition must include the information required by WAC 173-303-910 (1)(b). The petition should also address as many of the factors listed in subsection (40) of this section as are appropriate for the waste or waste category addressed in the petition.

(c) The department will evaluate petitions using the factors listed in subsection (40) of this section. The department will grant or deny a petition using the factors listed in subsection (40) of this section. The decision will be based on the weight of evidence showing that regulation under this section is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the dangerous waste program.

(d) Dangerous waste pharmaceuticals are regulated under WAC 173-303-555 and may not be added as a category of dangerous waste for the management under this section.

(40) Factors for petitions to include other wastes under this section.

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in WAC 173-303-081 or 173-303-082, or (if not listed) a proportion of the waste stream exhibits one or more characteristics or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100. (When a characteristic waste is added to the universal waste regulations of this section by using a generic name to identify the waste category (for example, batteries), the definition of universal waste in WAC 173-303-040 will be amended to include only the dangerous waste portion of the waste category (for example, dangerous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics or criteria (that is, is dangerous waste) is subject to the universal waste regulations of this section;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity gener-

ators, small businesses, government organizations, as well as large industrial facilities);

(c) The waste or category of waste is generated by a large number of generators (for example, more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other dangerous wastes, and specific management standards proposed or referenced by the petitioner (for example, waste management requirements appropriate to be added to subsections (9), (20), and (30) of this section; and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under this section will increase the likelihood that the waste will be diverted from nondangerous waste management systems (for example, the municipal waste stream, nondangerous industrial or commercial waste stream, municipal sewer or storm-water systems) to recycling, treatment, or disposal in compliance with the Hazardous Waste Management Act chapter 70.105 RCW, this chapter, and RCRA Subtitle C.

(g) Regulation of the waste or category of waste under this section will improve implementation of and compliance with the dangerous waste regulatory program; and/or

(h) Such other factors as may be appropriate.

(41) Applicability - Household and conditionally exempt small quantity generator waste.

(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this section:

(i) Household wastes that are exempt under WAC 173-303-071 (3)(c) and are also of the same type as the universal wastes defined at WAC 173-303-040; and/or

(ii) Small quantity generator wastes that are conditionally exempt under WAC 173-303-171 and are also of the same type as the universal wastes defined at WAC 173-303-040.

(b) Persons who commingle the wastes described in (a)(i) and (ii) of this subsection together with universal waste regulated under this section must manage the commingled waste under the requirements of this section.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-600 Final facility standards. Purpose, scope, and applicability.

(1) Final facility standards are established in WAC 173-303-600 through 173-303-695, and also include WAC 173-303-280 through 173-303-395. Final facility standards are minimum statewide standards which describe the acceptable management of dangerous waste.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of

this section. Only permitted facilities which treat, store or dispose of dangerous waste and owners or operators of a facility which recycles dangerous waste in compliance with subsection (5) of this section can receive dangerous waste from off-site sources, unless exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the underground injection control program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) The owner or operator of a POTW which treats, stores, or disposes of dangerous waste provided they have a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with all applicable requirements in WAC 173-303-171, 173-303-172, 173-303-174, 173-303-200 and 173-303-201;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-350 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-171;

(f) A farmer disposing of waste pesticides from their own use provided they comply with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(6);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of their final facility permit;

(j) The owner or operator of a totally enclosed treatment facility (~~(or elementary neutralization or wastewater treatment unit)~~) as defined in WAC 173-303-040, provided that they have a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with all applicable requirements of WAC 173-303-200 and 173-303-201 for large quantity generators, WAC 173-303-172 for medium quantity generators, and WAC 173-303-395 (1)(a) and (b);

(l) The compaction or sorting of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as

the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with all applicable requirements of WAC 173-303-200 and 173-303-201 for large quantity generators, WAC 173-303-172 for medium quantity generators, and WAC 173-303-395 (1)(a) and (b);

(m) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170 (2)(b);

(n) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that they have a permit by rule pursuant to the requirements of WAC 173-303-802(5) and provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 C.F.R. section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a);

(o) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(i) Batteries as described in WAC 173-303-573(2);

(ii) Mercury-containing equipment as described in WAC 173-303-573(3); and

(iii) Lamps as described in WAC 173-303-573(5);

(p)(i) Except as provided in (p)(ii) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a dangerous waste;

(B) An imminent and substantial threat of a discharge of dangerous waste;

(C) A discharge of a material that, when discharged, becomes a dangerous waste;

(D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(ii) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(iii) Any person who is covered by (p)(i) of this subsection and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(iv) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of their official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste

by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

(q) WAC 173-303-578 identifies when the requirements of WAC 173-303-600 apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter;

(r) Reverse distributors accumulating potentially creditable dangerous waste pharmaceuticals and evaluated dangerous waste pharmaceuticals, as defined in WAC 173-303-555 (1). Reverse distributors are subject to regulation under WAC 173-303-555 in lieu of this part for accumulation and management of potentially creditable dangerous waste pharmaceuticals and evaluated dangerous waste pharmaceuticals.

(4) (Reserved.)

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(7) The final facility requirements apply to owners or operators of all facilities that treat, store, or dispose of hazardous wastes referred to in 40 C.F.R. Part 268, which is incorporated by reference at WAC 173-303-140(2).

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-630 Use and management of containers. (1) Applicability. The regulations in this section apply to owners and operators of all dangerous waste facilities that store dangerous waste in containers.

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe corroding or rusting or flaking or scaling, and/or apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-360.

(3) Identification of containers. The owner or operator storing dangerous waste in containers must do the following:

(a) Clearly label or mark containers with the words "Dangerous Waste" or "Hazardous Waste." Except for containers one gallon (or four liters) and under, the lettering must be legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(b) Clearly label or mark containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(i) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(ii) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for employees, emergency response personnel, waste handlers, and the public; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

(c) Affix labels upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility.

(d) Ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(c) A minimum thirty-inch aisle space separation is required between rows of containers. A row of containers must be no more than two wide and allow for unobstructed inspection of each container.

(6) Inspections. The owner or operator must conduct "weekly inspections" (as defined in WAC 173-303-040), of areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The owner or operator must keep a written or electronic inspection log including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum twenty-five year storm of twenty-four hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks,

spills, and accumulated rainfall until the collected material is detected and removed. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Only containers holding free liquids, or holding wastes designated as F020, F021, F022, F023, F026, or F027 need to be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in (a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) Storage areas that store containers holding only wastes that do not contain free liquids, do not exhibit either the characteristic of ignitability or reactivity as described in WAC 173-303-090 (5) or (7), and are not designated as F020, F021, F022, F023, F026, or F027, need not have a containment system as described in this subsection: Provided, That:

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) The department may require owners and operators to protect their containers from the elements by means of a building or other protective covering if the department determines that such protection is necessary to prevent a release of waste or waste constituents due to the nature of the waste or design of the container. The building or other protective covering must allow adequate inspection under subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the separation distances for storage of explosives in the International Fire Code, 2015 edition, or the version adopted by the local fire district.

(b) The owner or operator must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the International Fire Code. Where no specific standard or requirements are specified in the International Fire Code, or in existing state or local fire codes, applicable sections of the NFPA 30 "Flammable and Combustible Liquids Code," must be used. The

owner/operator must also comply with the requirements of WAC 173-303-395 (1)(d).

(9) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(10) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

(11) Air emission standards. The owner or operator must manage all hazardous waste placed in a container in accordance with the applicable requirements of 40 C.F.R. Part 264, Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-640 Tank systems. (1) Applicability.

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tank systems to treat or store dangerous waste, except as (b), (c), and (d) of this subsection provides otherwise.

(b) Tank systems that are used to store or treat dangerous waste which contain no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subsection (4) of this section. To demonstrate the absence or presence of free liquids in the stored/treated waste, the Paint Filter Liquids Test Method 9095B described in "*Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods*" EPA Publication SW-846 as incorporated by reference at WAC 173-303-110 (3)(a) must be used.

(c) Tank systems, including sumps, as defined in WAC 173-303-040, that serve as part of a secondary containment system to collect or contain releases of dangerous wastes are exempted from the requirements in subsection (4)(a) of this section.

(d) Tanks, sumps, and other such collection devices or systems used in conjunction with drip pads, as defined in WAC 173-303-040 and regulated under WAC 173-303-675, must meet the requirements of this section.

(2) Assessment of existing tank system's integrity.

(a) For each existing tank system, the owner or operator must determine that the tank system is not leaking or is fit for use. Except as provided in (b) of this subsection, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, quali-

fied registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that attests to the tank system's integrity by January 12, 1988, for underground tanks that do not meet the requirements of subsection (4) of this section and that cannot be entered for inspection, or by January 12, 1990, for all other tank systems.

(b) Tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, must conduct this assessment within twelve months after the date that the waste becomes a dangerous waste.

(c) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(i) Design standard(s), if available, according to which the tank system was constructed;

(ii) Dangerous characteristics of the waste(s) that have been and will be handled;

(iii) Existing corrosion protection measures;

(iv) Documented age of the tank system, if available (otherwise, an estimate of the age); and

(v) Results of a leak test, internal inspection, or other tank system integrity examination such that:

(A) For nonenterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

(B) For other than nonenterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified, registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that addresses cracks, leaks, corrosion, and erosion.

Note: Three publications may be used, where applicable, as guidelines in conducting other than a leak test: *Tank Inspection, Repair, Alteration, and Reconstruction*, API Standard 653, Fourth Edition, April 2009; *Guidance for Assessing and Certifying Tank Systems that Store and Treat Dangerous Waste*, Ecology Publication No. 94-114; and *Steel Tank Institute publication #SP001-05 Standard for the Inspection of Aboveground Storage Tanks* 5th Edition, revised September 2011.

(d) If, as a result of the assessment conducted in accordance with (a) of this subsection, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subsection (7) of this section.

(e) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank system to ensure that the tank system retains its structural integrity and will not collapse, rupture, or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(3) Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must obtain (and for facilities that are pursuing or have obtained a final status permit, submit to the department, at time of submittal of Part B information) a written assessment, reviewed and certified by an independent, qualified regis-

tered professional engineer, in accordance with WAC 173-303-810 (13)(a), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of dangerous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment (which will be used by the department to review and approve or disapprove the acceptability of the tank system design at facilities which are pursuing or have obtained a final status permit) must include, at a minimum, the following information:

(i) Design standard(s) according to which tank system(s) are constructed;

(ii) Dangerous characteristics of the waste(s) to be handled;

(iii) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:

(A) Factors affecting the potential for corrosion, including but not limited to:

(I) Soil moisture content;

(II) Soil pH;

(III) Soil sulfides level;

(IV) Soil resistivity;

(V) Structure to soil potential;

(VI) Influence of nearby underground metal structures (e.g., piping);

(VII) Existence of stray electric current;

(VIII) Existing corrosion-protection measures (e.g., coating, cathodic protection); and

(B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

(I) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;

(II) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and

(III) Electrical isolation devices such as insulating joints, flanges, etc.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(iv) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(v) Design considerations to ensure that:

(A) Tank foundations will maintain the load of a full tank;

(B) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is either placed in a saturated zone, or is located less than five hundred feet from a fault which has had displacement in Holocene times; and

(C) Tank systems will withstand the effects of frost heave.

(b) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank system to ensure that the tank system retains its structural integrity and will not collapse, rupture or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(c) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

(i) Weld breaks;

(ii) Punctures;

(iii) Scrapes of protective coatings;

(iv) Cracks;

(v) Corrosion;

(vi) Other structural damage or inadequate construction/installation.

All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(d) New tank systems or components that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(e) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed into use.

(f) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

Note: The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery Piping," and ANSI Standard B31.4 "Liquid Petroleum Transportation Piping System," may be used, where applicable, as guidelines for proper installation of piping systems.

(g) The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under (a)(iii) of this subsection, or other corrosion protection if the department believes other corrosion protection is necessary to ensure the integrity of the tank system during use of

the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(h) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of (b) through (g) of this subsection, that attest that the tank system was properly designed and installed and that repairs, pursuant to (c) and (e) of this subsection, were performed. These written statements must also include the certification statement as required in WAC 173-303-810 (13)(a).

(4) Containment and detection of releases.

(a) In order to prevent the release of dangerous waste or dangerous constituents to the environment, secondary containment that meets the requirements of this subsection must be provided (except as provided in (f) and (g) of this subsection):

(i) For all new and existing tank systems or components, prior to their being put into service.

(ii) For tank systems that store or treat materials that become dangerous wastes, within two years of the dangerous waste listing, or when the tank system has reached fifteen years of age, whichever comes later.

(b) Secondary containment systems must be:

(i) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

(ii) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of (b) of this subsection, secondary containment systems must be at a minimum:

(i) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, stress of installation, and the stress of daily operations (including stresses from nearby vehicular traffic);

(ii) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(iii) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of dangerous waste or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the department that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(iv) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is pos-

sible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the department that removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four hours.

Note: If the collected material is a dangerous waste under WAC 173-303-070, it is subject to management as a dangerous waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-400 and WAC 173-303-600 through 173-303-695. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to a publicly owned treatment works (POTW), it is subject to the requirements of section 307 of the Clean Water Act, as amended. If the collected material is released to the environment, it may be subject to the reporting requirements of 40 C.F.R. Part 302.

(d) Secondary containment for tanks must include one or more of the following devices:

(i) A liner (external to the tank);

(ii) A vault;

(iii) A double-walled tank; or

(iv) An equivalent device as approved by the department.

(e) In addition to the requirements of (b), (c), and (d) of this subsection, secondary containment systems must satisfy the following requirements:

(i) External liner systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event.

(C) Free of cracks or gaps; and

(D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(ii) Vault systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;

(C) Constructed with chemical-resistant water stops in place at all joints (if any);

(D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(I) Meets the definition of ignitable waste under WAC 173-303-090(5); or

(II) Meets the definition of reactive waste under WAC 173-303-090(7), and may form an ignitable or explosive vapor; and

(F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(iii) Double-walled tanks must be:

(A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(C) Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the department, and the department concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.

Note: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of (b) and (c) of this subsection except for:

(i) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(ii) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(iii) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(iv) Pressurized aboveground piping systems with automatic shutoff devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shutoff devices) that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain a variance from the requirements of this subsection if the department finds, as a result of a demonstration by the owner or operator that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous waste or dangerous constituents into the groundwater, or surface water at least as effectively as secondary containment during the active life of the tank system or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with (g)(ii) of this subsection, be exempted from the secondary containment requirements of this section.

(i) In deciding whether to grant a variance based on a demonstration of equivalent protection of groundwater and surface water, the department will consider:

(A) The nature and quantity of the wastes;

(B) The proposed alternate design and operation;

(C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and groundwater; and

(D) All other factors that would influence the quality and mobility of the dangerous constituents and the potential for them to migrate to groundwater or surface water.

(ii) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the department will consider:

(A) The potential adverse effects on groundwater, surface water, and land quality taking into account:

(I) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

(II) The hydrogeological characteristics of the facility and surrounding land;

(III) The potential for health risks caused by human exposure to waste constituents;

(IV) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(V) The persistence and permanence of the potential adverse effects.

(B) The potential adverse effects of a release on groundwater quality, taking into account:

(I) The quantity and quality of groundwater and the direction of groundwater flow;

(II) The proximity and withdrawal rates of groundwater users;

(III) The current and future uses of groundwater in the area; and

(IV) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality.

(C) The potential adverse effects of a release on surface water quality, taking into account:

(I) The quantity and quality of groundwater and the direction of groundwater flow;

(II) The patterns of rainfall in the region;

(III) The proximity of the tank system to surface waters;

(IV) The current and future uses of surface waters in the area and any water quality standards established for those surface waters; and

(V) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality.

(D) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(I) The patterns of rainfall in the region; and

(II) The current and future uses of the surrounding land.

(iii) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7) of this section, except subsection (7)(d) of this section; and

(B) Decontaminate or remove contaminated soil to the extent necessary to:

(I) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

(II) Prevent the migration of dangerous waste or dangerous constituents to groundwater or surface water.

(C) If contaminated soil cannot be removed or decontaminated in accordance with (g)(iii)(B) of this subsection, comply with the requirements of subsection (8) of this section.

(iv) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7)(a), (b), (c), and (d) of this section; and

(B) Prevent the migration of dangerous waste or dangerous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if groundwater has been contaminated, the owner or operator must comply with the requirements of subsection (8)(b) of this section; and

(C) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of (a) through (f) of this subsection or reapply for a variance from secondary containment and meet the requirements for new tank systems in subsection (3) of this section if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and groundwater or surface water has not been contaminated.

(h) The following procedures must be followed in order to request a variance from secondary containment:

(i) The department must be notified in writing by the owner or operator that they intend to conduct and submit a demonstration for a variance from secondary containment as allowed in (g) of this subsection according to the following schedule:

(A) For existing tank systems, at least twenty-four months prior to the date that secondary containment must be provided in accordance with (a) of this subsection.

(B) For new tank systems, at least thirty days prior to entering into a contract for installation.

(ii) As part of the notification, the owner or operator must also submit to the department a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in (g)(i) or (ii) of this subsection;

(iii) The demonstration for a variance must be completed within one hundred eighty days after notifying the department of an intent to conduct the demonstration; and

(iv) If a variance is granted under this subsection, the department will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(i) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(i) For nonenterable underground tanks, a leak test that meets the requirements of subsection (2)(c)(v) of this section or other tank integrity method, as approved or required by the department, must be conducted at least annually.

(ii) For other than nonenterable underground tanks, the owner or operator must either conduct a leak test as in (i)(i) of this subsection or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(iii) For ancillary equipment, a leak test or other integrity assessment as approved by the department must be conducted at least annually.

Note: Three publications may be used, where applicable, as guidelines for assessing the overall condition of the tank system: *Tank Inspection, Repair, Alteration, and Reconstruction*, API Standard 653, Fourth Edition, April 2009; *Guidance for Assessing and Certifying Tank Systems that Store and Treat Dangerous Waste*, Ecology Publication No. 94-114; and *Steel Tank Institute publication #SP001-05 Standard for the Inspection of Aboveground Storage Tanks* 5th Edition, revised September 2011.

(iv) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with (i)(i) through (iii) of this subsection.

(v) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in (i)(i) through (iii) of this subsection, the owner or operator must comply with the requirements of subsection (7) of this section.

(5) General operating requirements.

(a) Dangerous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(iii) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of subsection (7) of this section if a leak or spill occurs in the tank system.

(d) All tank systems holding dangerous waste must be:

(i) Marked with labels or signs to identify the waste contained in the tank legible at a distance of at least fifty feet. For underground tank systems, labels or signs must be either placed on aboveground postings above each underground tank system or at each entrance to the active portion (area where the underground tank system is located).

(ii) Clearly marked or labeled with the words "Dangerous Waste" or "Hazardous Waste" legible at a distance of at least fifty feet, and for underground tank systems, the markings or labels must either be placed on aboveground postings above each underground tank system or at each entrance to the active portion (area where the underground tank/tank system is located).

(iii) Clearly marked or labeled with an indication of the hazards of the contents (example includes, but is not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes) legible at a distance of at least fifty feet. All hazard labels must include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the waste being stored or treated in the tank system(s) for the public, employees, emergency response personnel, and waste handlers. For underground tank systems, markings or labels of the hazards of the contents of the tank system must either be placed on aboveground postings above each underground tank system, or at each entrance to the active portion (area where the underground tank system is located).

(e) All tank systems holding dangerous wastes which are acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(6) Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

(b) The owner or operator must inspect at least once each operating day:

(i) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(ii) Data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of dangerous waste (e.g., wet spots, dead vegetation).

Note: WAC 173-303-320 requires the owner or operator to remedy any deterioration or malfunction they find. Subsection (7) of this section requires the owner or operator to notify the department within twenty-four hours of confirming a leak. Also, 40 C.F.R. Part 302 may require the owner or operator to notify the National Response Center of a release.

(c) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(i) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(ii) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(d) The owner or operator must document in the operating record of the facility an inspection of those items in (a) through (c) of this subsection. The owner or operator must keep a written or electronic inspection log including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:

(a) Cessation of use; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of dangerous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Removal of waste from tank system or secondary containment system.

(i) If the release was from the tank system, the owner/operator must, within twenty-four hours after detection of the leak or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of dangerous waste to the environment and to allow inspection and repair of the tank system to be performed.

(ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:

(i) Prevent further migration of the leak or spill to soils or surface water; and

(ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Notifications, reports.

(i) Any release to the environment must be reported to the department and other authorities immediately in accordance with WAC 173-303-145. Any release above the "reportable quantity" must also be reported to the National Response Center pursuant to 40 C.F.R. Part 302.

(ii) Within thirty days (or fifteen days if classified as an emergency) of detection of a release to the environment, a report containing the following information must be submitted to the department:

(A) Likely route of migration of the release;

(B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

(C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty days, these data must be submitted to the department as soon as they become available;

(D) Proximity to downgradient drinking water, surface water, and populated areas; and

(E) Description of response actions taken or planned.

(F) In the event of an emergency, additional information as required by WAC 173-303-360.

(e) Provision of secondary containment, repair, or closure.

(i) Unless the owner/operator satisfies the requirements of (e)(ii) through (iv) of this subsection, the tank system must be closed in accordance with subsection (8) of this section.

(ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(iii) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subsection (4) of this section before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of (f) of this subsection are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subsections (3) and (4) of this section. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with subsection (4) of this section prior to being returned to use.

(f) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with (e) of this subsection, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or

secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with WAC 173-303-810 (13) (a) that the repaired system is capable of handling dangerous wastes without release for the intended life of the system. This certification must be submitted to the department within seven days after returning the tank system to use.

Note: See WAC 173-303-320 for the requirements necessary to remedy a failure. Also, 40 C.F.R. Part 302 may require the owner or operator to notify the National Response Center of certain releases.

(8) Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as dangerous waste, unless WAC 173-303-070 (2)(a) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in WAC 173-303-610 and 173-303-620.

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in (a) of this subsection, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (see WAC 173-303-665 (6)). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in WAC 173-303-610 and 173-303-620.

(c) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of subsection (4)(b) through (f) of this section and is not exempt from the secondary containment requirements in accordance with subsection (4)(g) of this section, then:

(i) The closure plan for the tank system must include both a plan for complying with (a) of this subsection and a contingent plan for complying with (b) of this subsection.

(ii) A contingent post-closure plan for complying with (b) of this subsection must be prepared and submitted as part of the permit application.

(iii) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under (a) of this subsection.

(iv) Financial assurance must be based on the cost estimates in (c)(iii) of this subsection.

(v) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements for landfills under this chapter (WAC 173-303-610 and 173-303-620).

(9) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in tank systems unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395 (1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(iii) The tank system is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in NFPA 30 "Flammable and Combustible Liquids Code," or as required by state and local fire codes when such codes are more stringent. The owner or operator must also comply with the requirements of WAC 173-303-395 (1)(d).

(10) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless WAC 173-303-395 (1)(b) is complied with.

(11) Air emission standards. The owner or operator must manage all hazardous waste placed in a tank in accordance with the applicable requirements of 40 C.F.R. Part 264, Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-650 Surface impoundments. (1) Applicability. The regulations in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) Any surface impoundment that is not covered by (j) of this subsection must have a liner for all portions of the impoundment (except for an existing portion of a surface impoundment). The liner must be designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or groundwater or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or groundwater or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator must submit an engineering report with their permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report must be certified by an independent, qualified registered professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the groundwater monitoring requirements of WAC 173-303-645, or the unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the groundwater or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and groundwater or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to groundwater or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural

integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(g) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

(h) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(j) The owner or operator of each new surface impoundment unit on which construction commences after January 29, 1992, each lateral expansion of a surface impoundment unit on which construction commences after July 29, 1992, and each replacement of an existing surface impoundment unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system between such liners. "Construction commences" is as defined in WAC 173-303-040 under "existing TSD facility."

(i) The liner system must include:

(A) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into such liner during the active life and post-closure care period; and

(B) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of dangerous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.

(ii) The liners must comply with (a)(i)(A), (B), and (C) of this subsection.

(iii) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system. This leak detection system must be capable of detecting, collecting, and removing leaks of dangerous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a leak detection system in this paragraph are satisfied by installation of a system that is, at a minimum:

(A) Constructed with a bottom slope of one percent or more;

(B) Constructed of granular drainage materials with a hydraulic conductivity of 1×10^{-1} cm/sec or more and a thickness of 12 inches (30.5 cm) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-4} m²/sec or more;

(C) Constructed of materials that are chemically resistant to the waste managed in the surface impoundment and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes and any waste cover materials or equipment used at the surface impoundment;

(D) Designed and operated to minimize clogging during the active life and post-closure care period; and

(E) Constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump(s). The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(iv) The owner or operator will collect and remove pumpable liquids in the sumps to minimize the head on the bottom liner.

(v) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of groundwater.

(k) The department may approve alternative design or operating practices to those specified in (j) of this subsection if the owner or operator demonstrates to the department that such design and operating practices, together with location characteristics:

(i) Will prevent the migration of any dangerous constituent into the groundwater or surface water at least as effectively as the liners and leachate collection and removal system specified in (j) of this subsection; and

(ii) Will allow detection of leaks of dangerous constituents through the top liner at least as effectively.

(l) The double liner requirement set forth in (j) of this subsection may be waived by the department for any monofill, if:

(i) The monofill contains only dangerous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes dangerous for reasons other than the toxicity characteristic in WAC 173-303-090(8) or the toxicity criteria at WAC 173-303-100(5); and

(ii)(A) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of this paragraph, the term "liner" means a liner designed, constructed, installed, and operated to prevent dangerous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent dangerous waste from migrating beyond the liner to adjacent subsurface soil, groundwater, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of (j) of this subsection on the basis of a liner designed, constructed, installed, and operated to prevent dangerous waste from passing beyond the liner, at the closure of such impoundment, the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated,

the owner or operator of such impoundment will comply with appropriate post-closure requirements, including but not limited to groundwater monitoring and corrective action;

(B) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in WAC 173-303-040); and

(C) The monofill is in compliance with generally applicable groundwater monitoring requirements for facilities with permits under RCRA section 3005(c); or

(iii) The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any dangerous constituent into groundwater or surface water at any future time.

(m) The owner or operator of any replacement surface impoundment unit is exempt from (j) of this subsection if:

(i) The existing unit was constructed in compliance with the design standards of sections 3004 (o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act; and

(ii) There is no reason to believe that the liner is not functioning as designed.

(3) Reserve.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents; and

(iii) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from an independent qualified registered professional engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(d)(i) An owner or operator required to have a leak detection system under subsection (2)(j) or (k) of this section must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(ii) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semi annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(iii) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the department based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

(i) Unexpected changes of liquid levels occur; or

(ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

(i) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(ii) Immediately contain any surface leakage which has occurred or is occurring;

(iii) Immediately stop the leak;

(iv) Take any other necessary steps to stop or prevent catastrophic failure;

(v) Empty the impoundment, if a leak cannot be stopped by any other means; and

(vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

(i) A procedure for complying with the requirements of (b) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the

impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

(B) For any other portion of the impoundment, the repaired liner system must be certified by an independent qualified registered professional engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and post-closure care.

(a) At closure, the owner or operator must:

(i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all post-closure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring throughout the post-closure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsections (2)(j)(iii)(D) and (E), and (4)(d) of this section, and comply with all other applicable leak detection system requirements of this chapter;

(iii) Maintain and monitor the groundwater monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and runoff from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and post-closure care of an impoundment subject to (c) of this subsection must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under (a)(i) of this subsection.

Reserve.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of WAC 173-303-140 (2)(a), and:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and

(ii) WAC 173-303-395 (1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395 (1)(b) is complied with.

(9) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) The wastes F020, F021, F022, F023, F026, or F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this section. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to groundwater, surface water, or air so as to protect human health and the environment.

(10) Action leakage rate.

(a) The department must approve an action leakage rate for surface impoundment units subject to WAC 173-303-650 (2)(j) or (k). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

(b) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under WAC 173-303-650 (4)(d) to an average daily flow rate (gallons per acre per day) for each sump. Unless the department approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and if the unit is closed in accordance with WAC 173-303-650 (6)(b), monthly during the post-closure care period when monthly monitoring is required under WAC 173-303-650 (4)(d).

(11) Response actions.

(a) The owner or operator of surface impoundment units subject to subsection (2)(j) or (k) of this section must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in (b) of this subsection.

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

(i) Notify the department in writing of the exceedance within seven days of the determination;

(ii) Submit a preliminary written assessment to the department within fourteen days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(iii) Determine to the extent practicable the location, size, and cause of any leak;

(iv) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit

for inspection, repairs, or controls, and whether or not the unit should be closed;

(v) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(vi) Within thirty days after the notification that the action leakage rate has been exceeded, submit to the department the results of the analyses specified in (b) (iii), (iv), and (v) of this subsection, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the department a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in (b)(iii), (iv), and (v) of this subsection, the owner or operator must:

(i) Assess the source of liquids and amounts of liquids by source;

(ii) Conduct a fingerprint, dangerous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(iv) Document why such assessments are not needed.

(12) Air emission standards. The owner or operator must manage all hazardous waste placed in a surface impoundment in accordance with the applicable requirements of 40 C.F.R. Part 264, Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

(13) Existing and newly regulated surface impoundments. The requirements of 3005 (j)(1) and (6) of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended, are incorporated by reference. Surface impoundments regulated for the first time by a listing or characteristic adopted after November 8, 1984, must comply with new unit requirements or stop dangerous waste activity by four years after the date of adoption of the new listing or characteristic.

AMENDATORY SECTION (Amending WSR 04-24-065, filed 11/30/04, effective 1/1/05)

WAC 173-303-680 Miscellaneous units. (1) Applicability. The requirements of this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units, except as WAC 173-303-600 provides otherwise.

(2) Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment((-)) including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of dangerous waste or dangerous constituents from the unit. Permit terms and provisions must include those requirements in WAC 173-303-630 through 173-303-670, 40 C.F.R. Part 264, Subparts AA through CC, which are incorporated by reference at

WAC 173-303-690 through 173-303-692, WAC 173-303-800 through 173-303-806, part 63 subpart EEE (which is incorporated by reference at WAC 173-400-075 (5)(a)), and 40 C.F.R. Part 146 that are appropriate for the miscellaneous units being permitted. Protection of human health and the environment includes, but is not limited to:

(a) Prevention of any releases that may have adverse effects on human health or the environment due to migration of wastes constituents in the groundwater or subsurface environment, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(ii) The hydrologic and geologic characteristics of the unit and the surrounding area;

(iii) The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;

(iv) The quantity and direction of groundwater flow;

(v) The proximity to and withdrawal rates of current and potential groundwater users;

(vi) The patterns of land use in the region;

(vii) The potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food-chain crops and other vegetation;

(viii) The potential for health risks caused by human exposure to waste constituents; and

(ix) The potential for damage to domestic animals, wild-life, crops, vegetation, and physical structures caused by exposure to waste constituents.

(b) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(i) The volume and physical and chemical characteristics of the waste in the unit;

(ii) The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

(iii) The hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit;

(iv) The patterns of precipitation in the region;

(v) The quantity, quality, and direction of groundwater flow;

(vi) The proximity of the unit to surface waters;

(vii) The current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(viii) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(ix) The patterns of land use in the region;

(x) The potential for health risks caused by human exposure to waste constituents; and

(xi) The potential for damage to domestic animals, wild-life, crops, vegetation, and physical structures caused by exposure to waste constituents.

(c) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates;

(ii) The effectiveness and reliability of systems and structures to reduce or prevent emissions of dangerous constituents to the air;

(iii) The operating characteristics of the unit;

(iv) The atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(v) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;

(vi) The potential for health risks caused by human exposure to waste constituents; and

(vii) The potential for damage to domestic animals, wild-life, crops, vegetation, and physical structures caused by exposure to waste constituents.

(3) Monitoring, analysis, inspection, response, reporting, and corrective action. Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies must ensure compliance with subsection (2) of this section, WAC 173-303-320, 173-303-340(1), 173-303-390, and 173-303-64620 as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

(4) Post-closure care. A miscellaneous unit that is a disposal unit must be maintained in a manner that complied with subsection (2) of this section during the post-closure care period. In addition, if a treatment or storage unit has contaminated soils or groundwater that cannot be completely removed or decontaminated during closure, then that unit must also meet the requirements of subsection (2) of this section during post-closure care. The post-closure plan under WAC 173-303-610(8) must specify the procedures that will be used to satisfy this requirement.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-800 Permit requirements for dangerous waste management facilities. (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that ~~((transfers,))~~ treats, stores, or disposes (TSD) ~~((or recycles))~~ dangerous waste must ~~((, when required by this chapter,))~~ have a permit issued, or obtain a permit, in accordance with WAC 173-303-800 through 173-303-840 ((covering)). When required by this chapter, the owner/operator of a dangerous waste facility that transfers or recycles dangerous waste must also obtain a permit, in accordance with this section through WAC 173-303-840. The dangerous waste permit must cover the active life, closure period, groundwater protection compliance period, and for any regulated unit (as defined in WAC 173-303-040) or for any facility which at closure does not

meet the removal or decontamination limits of WAC 173-303-610 (2)(b), post-closure care period, unless ~~((they))~~ the owner/operator can demonstrate closure by removal or decontamination as provided under WAC 173-303-800 (9) and (10), or obtain an enforceable document in lieu of a post-closure permit, as provided under subsection (12) of this section. If a post-closure permit is required, the permit must address applicable groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of this chapter. The denial of a permit for the active life of a dangerous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC 173-303-282 and 173-303-283 are met.

(4) Permits will be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 have the same meanings as set forth in 40 C.F.R. 270.2.

(7) Exemptions.

(a) A permit for an on-site cleanup action may be exempted as provided in a consent decree or order signed by the department and issued pursuant to chapter 70.105D RCW.

(b) A permit is not required for an on-site cleanup action performed by the department pursuant to chapter 70.105D RCW.

(c) Further exemptions.

(i) A person is not required to obtain a dangerous waste permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) A discharge of a dangerous waste;

(B) An imminent and substantial threat of a discharge of dangerous waste;

(C) A discharge of a material that, when discharged, becomes a dangerous waste;

(D) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(E) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(ii) Any person who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(iii) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the

wastes listed below are not required to obtain a dangerous waste permit. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(A) Batteries as described in WAC 173-303-573(2);

(B) Mercury-containing equipment as described in WAC 173-303-573(3); and

(C) Lamps as described in WAC 173-303-573(5).

(8) Each permit issued under this chapter will contain terms and conditions as the department determines necessary to protect human health and the environment.

(9) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under 40 C.F.R. Part 265 standards as referenced by WAC 173-303-400 must obtain a post-closure permit unless they can demonstrate to the department that the closure met the standards for closure by removal or decontamination in WAC 173-303-650(6), 173-303-655(8), or 173-303-660(9), as appropriate, and such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed standards for closure at 40 C.F.R. Part 264.111, as appropriate. The demonstration may be made in the following ways:

(a) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that 40 C.F.R. Part 264.111 standards for closure by removal were met. If the department believes that 40 C.F.R. Part 264.111 standards were met, the department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in subsection (10) of this section.

(b) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the department for a determination that a post-closure permit is not required because the closure met the applicable 40 C.F.R. Part 264.111 closure standards.

(i) The petition must include data demonstrating that standards for closure by removal or decontamination were met, or it must demonstrate that the unit closed under chapter 173-303 WAC requirements that met or exceeded the applicable 40 C.F.R. Part 264.111 closure-by-removal standard.

(ii) The department will approve or deny the petition according to the procedures outline in subsection (10) of this section.

(10) Procedures for closure equivalency determination.

(a) If a facility owner/operator seeks an equivalency demonstration under subsection (9) of this section, the department will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within thirty days from the date of the notice. The department will also, in response to a request or at the discretion of the department, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the 40 C.F.R. Part 265 closure, as referenced by WAC 173-303-400, to a 40 C.F.R. Part 264.111 closure. The department will give public notice of the hearing at least thirty days before it occurs. (Public notice of the hearing may be given at the same

time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

(b) The department will determine whether the 40 C.F.R. Part 265 closure met 40 C.F.R. Part 264.111 closure by removal or decontamination requirements within ninety days of its receipt. If the department finds that the closure did not meet the applicable 40 C.F.R. Part 264.111 standards, the department will provide the owner/operator with a written statement of the reasons why the closure failed to meet 40 C.F.R. Part 264.111 standards. The owner/operator may submit additional information in support of an equivalency demonstration within thirty days after receiving such written statement. The department will review any additional information submitted and make a final determination within sixty days.

(c) If the department determines that the facility did not close in accordance with 40 C.F.R. Part 264.111 standards for closure by removal, the facility is subject to post-closure permitting requirements.

(11) The department may require a permittee or an applicant to submit information in order to establish permit conditions under subsection (8) of this section and WAC 173-303-806 (11)(d).

(12) Enforceable documents for post-closure care. At the discretion of the department, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document imposing the requirements of 40 C.F.R. 265.121 as incorporated by reference in WAC 173-303-400 (3)(a). "Enforceable document" has the same meaning as defined in WAC 173-303-040.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

(a) Final status TSD facilities; and

(b) Certain recycling facilities that are not exempt from the permit requirements.

(2)(a) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit must complete, sign, and submit an application to the department. An application must consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section. The requirements for the contents of a part A permit application are at WAC 173-303-803(3).

(b) Persons covered by permits by rule (WAC 173-303-802) need not apply. Procedures for applications, issuance

and administration of emergency permits are found exclusively in WAC 173-303-804. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in WAC 173-303-809.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application must consist of the information required in (a) through (m) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B must be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). ~~((Certain technical data, such as design drawings and specifications, and engineering studies must be certified by a registered professional engineer.))~~ All documents as defined in WAC 196-23-020(1) submitted under this section shall be subject to chapters 196-23 WAC and 18.43 RCW. For post-closure permits, only the information specified in WAC 173-303-806 (4)(o) is required in Part B of the permit application. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste and hazardous debris to be handled at the facility. At a minimum, these analyses must contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4)(a)(i)

and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), 173-303-670(7), and 173-303-680 (3), and 40 C.F.R. 264.1033, 264.1035, 264.1052, 264.1053, 264.1058, 264.1064, 264.1067, 264.1084, 264.1085, 264.1086, and 264.1088.

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340, or a description of the procedures used to comply with these requirements.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640 (7), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent runoff from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages;

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing); and

(F) Prevent releases to the atmosphere.

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Seismic risk consideration. The owner/operator of a proposed facility or expansion of an existing facility must identify the seismic risk zone in which the facility is intended to be located. Where state or local maps are not available, United States Geological Survey Open File Report number 82-1033 may be used to identify seismic risk zones. The owner/operator must demonstrate that the facility can and will be designed to resist seismic ground motion and that the design is sufficient to withstand the maximum horizontal acceleration of a design earthquake specified in the demonstration.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(8),

173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680 (2) and (4).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:

(A) Map scale and date;

(B) One hundred-year flood plain area;

(C) Surface waters including intermittent streams;

(D) Surrounding land uses (residential, commercial, agricultural, recreational);

(E) A wind rose (i.e., prevailing windspeed and direction);

(F) Orientation of the map (north arrow);

(G) Legal boundaries of the TSD facility site;

(H) Access control (fences, gates);

(I) Injection and withdrawal wells both on-site and off-site;

(J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(K) Barriers for drainage or flood control; and

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas).

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of groundwater is required from owners or operators of dangerous waste facilities containing a regulated unit except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the groundwater monitoring data obtained during the interim status period under 40 C.F.R. 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow direction and rate, and the basis for such identification (that is, the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of groundwater monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the groundwater from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in Appendix "Ground-Water Monitoring List" in *Chemical Testing Methods for Designating Dangerous Waste* which is incorporated at WAC 173-303-110 (3)(c) and (7), and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the groundwater at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the groundwater;

(II) A proposed groundwater monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data;

(G) If the presence of dangerous constituents has been detected in the groundwater at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated groundwater, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating groundwater monitoring data; and

(H) If dangerous constituents or parameters have been measured in the groundwater which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if groundwater monitoring conducted at the time of permit application under 40 C.F.R. 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in groundwater over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

(I) A characterization of the contaminated groundwater, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the groundwater as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken;

(IV) A description of how the groundwater monitoring program will demonstrate the adequacy of the corrective action; and

(V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.

(xxi) Contingent groundwater protection program. The following actions are required for owners or operators of proposed land-based facilities and may be required for owners/operators of existing land-based facilities, except as provided in WAC 173-303-645 (1)(b).

(A) Contingent groundwater protection program. The owner or operator must develop a contingent groundwater protection program. The purpose of this program will be to prevent the migration of dangerous waste or dangerous waste constituents from waste management units to the nearest hydraulically downgradient receptor at any time during the life of the facility. For the purposes of this subsection, the downgradient receptor will be the facility property line, perennial surface water or domestic well, whichever is nearest to the dangerous waste management unit. The contingent groundwater protection program must at a minimum:

(I) Define the local and regional hydrogeologic characteristics. The contingent groundwater protection program must be based on a sufficient understanding of site geology, hydrology, and other factors to allow evaluation of its adequacy by the department. Site characterization must be performed in sufficient detail to provide, at a minimum, the following information: Site geostratigraphy; site hydrostratigraphy; identification of aquifers, aquitards, and aquicludes; flow models for each stratum (i.e., porous media or fracture flow); the distribution of vertical and horizontal hydraulic conductivity; effective porosity; horizontal and vertical hydraulic gradients; groundwater travel time to receptors; and heterogeneity for each stratigraphic unit. Site interpretative models must include ranges of tested values: The provisions of WAC 173-303-806 (4)(a)(xx) and 173-303-645, must be used as guidance in the development of the contingent groundwater protection program.

(II) Identify the range of potential release scenarios that could occur during facility operation and the post-closure care period. The scenarios must incorporate the intended design(s) of the dangerous waste management unit(s), wastes to be placed in the dangerous waste management unit(s), waste and leachate chemistry, waste, and soil and rock geochemical interactions, and the results of site characterization pursuant to WAC 173-303-806 (4)(a)(xx) and (xxi);

(III) Include specific physical action to be taken if dangerous waste or dangerous waste constituents are detected in one or more of the monitoring wells. The physical actions

must be based upon engineering feasibility studies describing remedial actions established from site specific conditions and waste features. Such actions may include installation of a pump and treat system between the monitoring well and the receptor or installation of a section of slurry wall to decrease groundwater travel times. The description of the systems must also provide how the remediation system will achieve cleanup, its efficiency, and the time frames involved;

(IV) Incorporate the design, construction, and sampling methods outlined in WAC 173-303-645 (8)(c), (d), (e), (f), and (g);

(V) Demonstrate to the satisfaction of the department that the owner/operator of the dangerous waste management facility has the financial capability to implement the proposed groundwater protection plan; and

(VI) Include reporting procedures to the department.

(B) The response actions identified in WAC 173-303-806 (4)(a)(xxi)(A)(III) must be activated if the presence of dangerous waste or dangerous waste constituents have been detected at the point of compliance in accordance with WAC 173-303-645 (9)(g), and must continue until the concentration of dangerous waste or dangerous waste constituents under WAC 173-303-645(4) are reduced to levels below their respective concentration limits specified in WAC 173-303-645(5).

(C) If the owner/operator does not demonstrate that the groundwater protection program will prevent the migration of dangerous waste or its constituents to the nearest receptor, the department will require corrections to be made in the protection program, increase setbacks from the nearest receptor, or deny the permit.

(xxii) Additional requirements for incineration facilities. The following actions regarding the protection of human health and the environment must be taken by owners/operators of proposed hazardous waste incineration facilities and may be required for owners or operators of existing incineration facilities.

(A) Ambient monitoring program. The owner/operator will be required to develop an ambient monitoring program. The purpose of this ambient monitoring program will be to: Gather baseline environmental information characterizing on-site and off-site environmental conditions prior to facility operation; and, to identify and measure changes in the environment which may be linked to the construction and operation of the facility. The ambient monitoring program must, at a minimum:

(I) Include a characterization of facility emission sources and pathways of contaminant transport.

(II) Characterize local and regional ecosystems, including agricultural, and their sensitivity to the potential contaminants from the facility.

(III) Incorporate the findings of the environmental impact statement's health risk assessment and/or other assessments specific to the proposal or available to the scientific community regarding emissions from dangerous waste management facilities and their potential human health and environmental effects.

(IV) Identify sensitive indicator plants and animals for biomonitoring, identify specific chemical constituents of concern, sampling locations, sampling frequency, sampling

and analytical methods, chain of custody procedures, quality assurance/quality control procedures, reporting times, recordkeeping procedures, and data evaluation procedures.

(B) Environmental review procedures. The owner/operator must establish procedures to allow for public review of facility operation and all monitoring data required by the facility's permit. In developing this process, the owner/operator must, at a minimum:

(I) Coordinate this effort with the public and interested local organizations;

(II) Identify the informational needs of the community and develop a public information process which meets these needs; and

(III) Develop procedures allowing full access by the public to all monitoring data required by the permit.

(C) Impact mitigation plan. Prior to the department issuing a permit, the owner/operator must submit an impact mitigation plan which demonstrates to the satisfaction of the department that the owner/operator will mitigate all probable significant adverse impacts, including economic, due to facility location and operations. The owner/operator must use as a basis for identifying probable significant adverse economic impacts those probable economic impacts identified during a public review process, such as the environmental impact statement scoping process, if applicable.

The plan must include, but is not limited to, a description of what the owner/operator will do to reduce or prevent any probable significant impacts before they occur, to mitigate such impacts should they occur, and to ensure the owner/operator has and will have the financial capability to implement such preventative and mitigative measures. Mitigation measures may include, as an element, financial compensation to adversely affected parties.

This plan may be submitted with environmental reports the department requires for compliance with the State Environmental Policy Act, with the written citizen proponent negotiation report and agreements, or with the Part B permit application. If the plan does not demonstrate that the owner/operator is capable of adequately mitigating the identified probable significant adverse economic impacts, the department will require modification of the plan or of the proposed facility location, or will deny the permit application. The department must be satisfied with the plan prior to the issuance of the permit.

(xxiii) Information requirements for solid waste management units.

(A) The following information is required for each solid waste management unit:

(I) The location of the unit on the topographic map required under (a)(xviii) of this subsection.

(II) Designation of type of unit.

(III) General dimensions and structural description (supply any available drawings).

(IV) Time frame over which the unit was operated.

(V) Specification of all wastes that have been managed in the unit, to the extent available.

(B) The owner/operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of dangerous wastes or dangerous constituents from such unit or units.

(C) The owner/operator must conduct and provide the results of sampling and analysis of groundwater, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the department determines it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

WAC 173-303-806 (4)(a)(xxiv):

(xxiv) Information requirements for known releases.

(A) In order to provide for corrective action necessary to protect human health and the environment, the following information is required for all known significant releases of dangerous waste and dangerous constituents (as defined by WAC 173-303-64610(4)) at, and from, the facility. A significant release is a release which has affected or has the potential to affect human health or the environment at or beyond the facility.

(I) The location of the release on the topographic map required under (a)(xviii) of this subsection.

(II) General dimensions of the release and any relevant structural description. For example, if the release is from a storage tank, provide a structural description of the tank. Supply any available drawings.

(III) Time frame over which the release occurred.

(IV) Specification of all dangerous waste or dangerous constituents (as defined by WAC 173-303-64610(4)) present in the release, to the extent available.

(xxv) A summary of the preapplication meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under WAC 173-303-281 (3)(c).

(xxvi) For land disposal facilities, if a case-by-case extension has been approved under 40 C.F.R. 268.5 or a petition has been approved under 40 C.F.R. 268.6, a copy of the notice of approval for the extension or petition is required.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable;

(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c); and

(vi) Information on air emission control equipment as required in (m) of this subsection.

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);

(vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);

(viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):

(A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the groundwater or surface water during the life of the facility; or

(B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description

of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);

(xi) A description of the marking and/or labeling of tanks;

(xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW; and

(xiii) Information on air emission control equipment as required in (m) of this subsection.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is designed, and is or will be constructed, operated and maintained to meet the requirements of WAC 173-303-650 (2)(j), (10), (11), and 173-303-335, addressing the following items:

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the groundwater or surface water at any future time;

(B) Prevention of overtopping;

(C) Structural integrity of dikes;

(D) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of WAC 173-303-650 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-650 (2)(k), (l), or (m), submit appropriate information;

(E) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(F) The construction quality assurance (CQA) plan if required under WAC 173-303-335; and

(G) Proposed action leakage rate, with rationale, if required under WAC 173-303-650(10), and response action plan, if required under WAC 173-303-650(11).

(iii) Reserve.

(iv) A description of how each surface impoundment, including the double liner system, leak detection system, cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a), (b), and (d). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by an independent qualified registered professional engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by an independent qualified registered professional engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9); and

(xi) Information on air emission control equipment as required in (m) of this subsection.

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the waste pile is designed, and is or will be constructed, operated, and maintained to meet the requirements of WAC 173-303-335, 173-303-660 (2)(j), (11) and (12), addressing the following items:

(A)(I) The liner system (except for an existing portion of a pile) if the waste pile must meet the requirements of WAC 173-303-660(2), including the independent qualified registered professional engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location

aspects, prevent the migration of any dangerous constituents into the groundwater or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of WAC 173-303-660 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-660 (2)(k), (l), or (m), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-660(3), and response action plan, if required under WAC 173-303-660(4);

(B) Control of run-on;

(C) Control of runoff;

(D) Management of collection and holding units associated with run-on and runoff control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) Reserve.

(v) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system and appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, con-

structed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) and subsection (4)(f)(v) of this section provide otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110 (3)(a), or their equivalent as approved by the department;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110 (3)(a); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODCs) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670 (4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODCs) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODCs in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODCs) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

- (I) Incinerator ash residues, if any; and
- (II) Residues from the air pollution control devices.

(iv) The department will approve a permit application without a trial burn if the department finds that:

- (A) The wastes are sufficiently similar; and
- (B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(v) When an owner or operator of a dangerous waste incineration unit becomes subject to dangerous waste permit requirements after October 12, 2005, or when an owner or operator of an existing dangerous waste incinerator unit demonstrates compliance with the air emission standards and limitations in 40 C.F.R. Part 63, Subpart EEE (that is, by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 C.F.R. 63.1207(j) and 63.1210(d) documenting compliance with all applicable requirements of 40 C.F.R. Part 63, Subpart EEE), the requirements of this subsection do not apply, except those provisions the department determines are necessary to ensure compliance with WAC 173-303-670 (6)(a) and (c) if you elect to comply with 40 C.F.R. 270.235 (a)(1)(i), which is incorporated by reference at WAC 173-303-841, to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the department may apply the provisions of this subsection, on a case-by-case basis, for purposes of information collection in accordance with WAC 173-303-800(11) and 173-303-815 (2)(b)(ii). Note that 40 C.F.R. Part 63, Subpart EEE is incorporated by reference at WAC 173-400-075 (5)(a). If you are subject to 40 C.F.R. Part 63 you must get an air permit from ecology or the local air authority.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

- (A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;
- (B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);
- (C) Any specific laboratory or field test that will be conducted, including:
 - (I) The type of test (e.g., column leaching, degradation);
 - (II) Materials and methods, including analytical procedures;
 - (III) Expected time for completion; and
 - (IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

- (A) The wastes to be land treated;
- (B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:
 - (I) Waste application method and rate;
 - (II) Measures to control soil pH;
 - (III) Enhancement of microbial or chemical reactions; and
 - (IV) Control of moisture content;
- (C) Provisions for unsaturated zone monitoring, including:
 - (I) Sampling equipment, procedures, and frequency;
 - (II) Procedures for selecting sampling locations;
 - (III) Analytical procedures;
 - (IV) Chain of custody control;
 - (V) Procedures for establishing background values;
 - (VI) Statistical methods for interpreting results; and
 - (VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);
 - (D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;
 - (E) The proposed dimensions of the treatment zone;
- (iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:
 - (A) Control of run-on;
 - (B) Collection and control of runoff;
 - (C) Minimization of runoff of dangerous constituents from the treatment zone;
 - (D) Management of collection and holding facilities associated with run-on and runoff control systems;
 - (E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and
 - (F) Control of wind dispersal of particulate matter, if applicable;
- (iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:
 - (A) Characteristics of the food-chain crop for which the demonstration will be made;
 - (B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;
 - (C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;
 - (D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12). This submission must address the following items as specified in WAC 173-303-655(12):

(A) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(B) The attenuative properties of underlying and surrounding soils or other materials;

(C) The mobilizing properties of other materials codisposed with these wastes; and

(D) The effectiveness of additional treatment, design, or monitoring techniques.

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is designed, and is or will be constructed, operated and maintained to comply with the requirements of WAC 173-303-335, 173-303-665 (2), (8) and (9) addressing the following items:

(A)(I) The liner system (except for an existing portion of a landfill), if the landfill must meet the requirements of WAC 173-303-665 (2)(a), including the independent qualified registered professional engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituent into the ground-water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of WAC 173-303-665 (2)(h). If an exemption

from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-665 (2)(j), (k) or (l), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-665(8), and response action plan, if required under 173-303-665(9);

(B) Control of run-on;

(C) Control of runoff;

(D) Management of collection and holding facilities associated with run-on and runoff control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) Reserve.

(iv) A description of how each landfill, including the double liner system, leachate collection and removal system, cover systems, and appurtenances for control for run-on and runoff will be inspected in order to meet the requirements of WAC 173-303-665(4). This information must be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(7) will be complied with;

(vii) A description of how each landfill will be designed and operated in order to comply with WAC 173-303-140.

(i) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in WAC 173-303-680(1), owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(A) Physical characteristics, materials of construction, and dimensions of the unit;

(B) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of WAC 173-303-680 (2) and (3); and

(C) For disposal units, a detailed description of the plans to comply with the post-closure requirements of WAC 173-303-680(4).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of

WAC 173-303-680(2). If the applicant can demonstrate that he does not violate the environmental performance standards of WAC 173-303-680(2) and the department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to dangerous waste or dangerous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of WAC 173-303-680(2).

(j) Specific Part B information requirements for process vents. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have process vents to which WAC 173-303-690 applies must provide the following additional information:

(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-690 on the effective date that the facility becomes subject to the provisions of WAC 173-303-690 or 40 C.F.R. 265 Subpart AA incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 C.F.R. section 264.1033 (a)(2).

(ii) Documentation of compliance with the process vent standards in 40 C.F.R. section 264.1032, including:

(A) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the dangerous waste management units on a facility plot plan).

(B) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(C) Information and data used to determine whether or not a process vent is subject to the requirements of 40 C.F.R. section 264.1032.

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of 40 C.F.R. 264.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 C.F.R. 264.1035 (b)(3).

(iv) Documentation of compliance with 40 C.F.R. 264.1033, including:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 C.F.R. 264.1033(k).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (incorporated by reference at WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device information. The design analysis must address the vent stream characteristics and control device operation parameters as specified in 40 C.F.R. 264.1035 (b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 40 C.F.R. 264.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

(k) Specific Part B information requirements for equipment. Except as otherwise provided in WAC 173-303-600 (3), owners and operators of facilities that have equipment to which WAC 173-303-691 applies must provide the following additional information:

(i) For each piece of equipment to which WAC 173-303-691 applies:

(A) Equipment identification number and dangerous waste management unit identification.

(B) Approximate locations within the facility (e.g., identify the dangerous waste management unit on a facility plot plan).

(C) Type of equipment (e.g., a pump or pipeline valve).

(D) Percent by weight total organics in the hazardous waste stream at the equipment.

(E) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(F) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-691 on the effective date that the facility becomes subject to the provisions of WAC 173-303-691 or 40 C.F.R. Part 265, Subpart BB incorporated by reference at WAC 173-303-400 (3)(a), an implementation schedule as specified in 40 C.F.R. 264.1033 (a)(2).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control

device, a performance test plan as specified in 40 C.F.R. section 264.1035 (b)(3).

(iv) Documentation that demonstrates compliance with the equipment standards in 40 C.F.R. sections 264.1052 to 264.1059. This documentation will contain the records required under 40 C.F.R. 264.1064. The department may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with 40 C.F.R. section 264.1060 will include the following information:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 C.F.R. 264.1033(j).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device information. The design analysis must address the vent stream characteristics and control device operation parameters as specified in 40 C.F.R. 264.1035 (b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

(l) Special Part B information requirements for drip pads.

Except as otherwise provided by WAC 173-303-600(3), owners and operators of dangerous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide the following additional information:

(i) A list of hazardous wastes placed or to be placed on each drip pad.

(ii) If an exemption is sought to WAC 173-303-645, as provided by WAC 173-303-645(1), detailed plans and an engineering report describing how the requirements of WAC 173-303-645 (1)(b) will be met.

(iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-675(4), including the as-built drawings and specifications. This submission must address the following items as specified in WAC 173-303-675(2):

(A) The design characteristics of the drip pad;

(B) The liner system;

(C) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;

(D) Practices designed to maintain drip pads;

(E) The associated collection system;

(F) Control of run-on to the drip pad;

(G) Control of runoff from the drip pad;

(H) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(I) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.

(J) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(K) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(L) Provisions for ensuring that collection and holding units associated with the run-on and runoff control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

(M) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

(N) A description of how each drip pad, including appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of WAC 173-303-675(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection.

(O) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of WAC 173-303-675 (4)(a) through (f).

(P) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under WAC 173-303-675 (6)(a). For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665(6) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection.

(m) Specific Part B information requirements for air emission controls for tanks, surface impoundments, and containers (Subpart CC) at 40 C.F.R. 270.27 are incorporated by reference.

(n) When an owner or operator of a cement kiln, light-weight aggregate kiln, solid fuel boiler, liquid fuel boiler or hydrochloric acid production furnace demonstrates compliance with the air emission standards and limitations in 40 C.F.R. Part 63, Subpart EEE (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 C.F.R. 63.1207(j) and 63.1210(b) documenting compliance with all applicable requirements of Part 63, subpart EEE), the requirements of this subsection do not apply, except those provisions the director determines are

necessary to ensure compliance with 40 C.F.R. 266.102 (e)(1) and 266.102 (e)(2)(iii) if you elect to comply with 40 C.F.R. 270.235 (a)(1)(i), which is incorporated by reference at WAC 173-303-841, to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the director may apply the provisions of this subsection, on a case-by-case basis, for purposes of information collection in accordance with WAC 173-303-800(11) and 173-303-815 (2)(b)(ii).

(o) For post-closure permits, the owner or operator is required to submit only the information specified in (a)(i), (iv), (v), (vi), (xi), (xiii), (xiv), (xvi), (xviii), (xx), (xxiii) of this subsection, unless the department determines that additional information from (a), (c), (d), (e), (g), and (h) of this subsection is necessary. The owner or operator is required to submit the same information when an alternative authority is used in lieu of a post-closure permit as provided in WAC 173-303-800(12).

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit must submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

Note: See public notice requirements at WAC 173-303-281(5).

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department will not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the department receives an application form and any supplemental information which are completed to the department's satisfaction. The department may consider an application for a permit to be complete

notwithstanding the failure of the owner or operator to submit the exposure information described in subsection (12) of this section. The department may deny a permit for the active life of a dangerous waste management facility or unit before receiving a complete application for a permit.

(9) Recordkeeping. Applicants must keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits will contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits will be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit will not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.

(d) Each permit for a land disposal facility will be reviewed by the department five years after the date of permit issuance or reissuance and will be modified as necessary, as provided in WAC 173-303-830(3).

(12) Exposure information. Any Part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes dangerous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to dangerous wastes or dangerous constituents through releases related to the unit. At a minimum, such information must address:

(a) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(b) The potential pathways of human exposure to dangerous waste or constituents resulting from the releases described under (a) of this subsection; and

(c) The potential magnitude and nature of the human exposure resulting from such releases.

(13) Grounds for denial. A permit application will be denied pursuant to the procedures in WAC 173-303-840 if it is determined that the proposed location and/or activity endangers public health and the environment as demonstrated by the permit applicant's failure to satisfy the performance standards of WAC 173-303-283.

(14) Permit changes. All final facility permits will be subject to the requirements of permit changes, WAC 173-303-830.

(15) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(16) Other requirements for final recycling facility permits. In lieu of issuing a final recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act,

chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities.

(17)(a) If the department concludes, based on one or more of the factors listed in (a)(i) through (ix) of this subsection, that compliance with the standards of 40 C.F.R. Part 63, Subpart EEE alone may not be protective of human health or the environment, the department will require the additional information or assessment(s) necessary to determine whether additional controls are necessary to ensure protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health and/or the environment resulting from both direct and indirect exposure pathways. The department may also require a permittee or applicant to provide information necessary to determine whether such an assessment(s) should be required.

The department will base the evaluation of whether compliance with the standards of 40 C.F.R. Part 63, Subpart EEE alone is protective of human health or the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including, as appropriate, any of the following factors:

(i) Particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;

(ii) Identities and quantities of emissions of persistent, bioaccumulative or toxic pollutants considering enforceable controls in place to limit those pollutants;

(iii) Identities and quantities of nondioxin products of incomplete combustion most likely to be emitted and to pose significant risk based on known toxicities (confirmation of which should be made through emissions testing);

(iv) Identities and quantities of other off-site sources of pollutants in proximity of the facility that significantly influence interpretation of a facility-specific risk assessment;

(v) Presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;

(vi) Volume and types of wastes, for example wastes containing highly toxic constituents;

(vii) Other on-site sources of hazardous air pollutants that significantly influence interpretation of the risk posed by the operation of the source in question;

(viii) Adequacy of any previously conducted risk assessment, given any subsequent changes in conditions likely to affect risk; and

(ix) Such other factors as may be appropriate.

(b) Reserved.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-810 General permit conditions. (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter. If the conditions of this section are

incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently is subject to enforcement actions, may not argue that it would have been necessary to halt or reduce the permitted activities in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee must take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee must at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit.

(a) Compliance with a final facility permit during its term constitutes compliance for the purpose of enforcement with chapter 173-303 WAC except for permit modifications and those requirements not included in the permit that:

(i) Become effective by statute;

(ii) Are adopted under 40 C.F.R. Part 268 restricting the placement of dangerous waste in or on the land;

(iii) Are adopted under WAC 173-303-650 through 173-303-665 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of WAC 173-303-830 Class 1 permit modifications; or

(iv) Are adopted under 40 C.F.R. Part 265, Subparts AA, BB, or CC which are incorporated by reference at WAC 173-303-400 (3)(a) limiting air emissions.

(b) A permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in WAC 173-303-830 (3) and (5), or the permit may be modified upon the request of the permittee as set forth in WAC 173-303-830(4).

(c) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(d) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee must furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee must also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee must allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records.

(a) Reserve.

(b) Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

(c) The permittee must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by WAC 173-303-380 (1)(q), and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

(d) Records of monitoring information must include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(e) The permittee must maintain records from all groundwater monitoring wells and associated groundwater surface elevations for the active life of the facility, and for disposal facilities for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department must be signed in accordance with this subsection and must be certified according to subsection (13) of this section.

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, then the operator will be the permit applicant and responsible for developing the permit application and all accompanying materials, except that the owner must also sign and certify the permit application. Permit applications must be signed as follows:

(i) For a corporation: By a responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

(iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department must be signed by a person described in (a) of this subsection, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification.

(a) Except as provided in (b) of this subsection, any person signing the documents required under (a) or (b) of subsection (12) of this section must make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) When a dangerous waste facility is owned by one person, but is operated by another person, then the permit application must be certified as follows:

(i) The operator must make the certification described under (a) of this subsection; and

(ii) The owner must make the following certification:

"I certify under penalty of law that I own the real property described in, and am aware of the contents of, this permit application, and that I have received a copy of this application. As owner of the real property, I understand that I am responsible for complying with any requirements of chapter 173-303 WAC with which only I am able to comply, and that there are significant penalties for failure to comply with such requirements."

(14) Reporting. The following reports must be provided:

(a) Planned changes. The permittee must give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail, hand delivery or other means that establish proof of receipt (including applicable electronic means), a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and either

(Note: In certifying construction or modification, the independent qualified registered professional engineer is responsible only for certifying those portions of the facility which are identified in chapter 173-303 WAC as specifically requiring certification by an independent qualified registered professional engineer.)

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee must give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of dangerous waste;

and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the modified portion of the facility except as provided in WAC 173-303-830(4).

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) must be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or noncompliance or any progress reports on interim and final permit requirements contained in any compliance schedule must be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee must immediately report any noncompliance which may endanger health or the environment. Information must be provided orally to the department as soon as the permittee becomes aware of the circumstances. A written submission must also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Information which must be reported immediately must include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility;

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Other noncompliance. The permittee must report all instances of noncompliance not reported under (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports must contain the information listed in (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit

application, or submitted incorrect information in a permit application or in any report to the department, he must promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(5);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if:

(i) The processes are unique to the owner/operator's business or the owner/operator's competitive position may be adversely affected if the information is released to the public or to a competitor; and

(ii) The director determines that granting the owner/operator's request is not detrimental to the public interest and is in accord with the policies and purposes of chapter 43.21A RCW.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten days after the submitter receives the notice, the department will place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria.

(16) General permit conditions. Information repository. The director may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in WAC 173-303-281 (6)(b). The information repository will be governed by the provisions in WAC 173-303-281 (6)(c) through (f).

AMENDATORY SECTION (Amending WSR 98-03-018, filed 1/12/98, effective 2/12/98)

WAC 173-303-900 Public involvement and participation. (1) Intent. Public involvement and participation plays a significant role in the decision making process. The department intends to foster public awareness, information and consultation, and to respond actively to public concerns. The department will inform the public of major issues, proposed projects, and regulatory changes, and will consult interested and affected segments of the public before making important decisions. The overall goal of the department is to provide knowledge to the public about dangerous waste issues that vitally affect the state, to encourage broader understanding of the public role in dangerous wastes and their proper management, and to promote an open dialogue between the public, industry, and government.

(2) Applicable requirements. In fulfilling the intent of public involvement and participation in the decision making process, the department will refer to and, where applicable, follow the requirements and guidance set forth in the following:

(a) Chapter ((34.04)) 34.05 RCW, Administrative Procedure Act;

(b) Chapter 34.08 RCW, Washington State Register Act of 1977;

(c) Chapter 42.17 RCW, Public Records Act;

(d) Chapter 197-11 WAC, Guidelines interpreting and implementing the State Environmental Policy Act;

(e) 40 C.F.R. Part 25, Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act; and

(f) Reserve.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-910 Petitions. (1) General petitions.

(a) Any person may petition the department to modify or revoke any provision in this chapter. This subsection sets forth general requirements which apply to all such petitions. The remaining subsections of this section describe additional requirements for specific types of petitions.

(b) Each petition must be submitted to the department by certified mail and must include:

(i) The petitioner's name and address;

(ii) A statement of the petitioner's interest in the proposed action;

(iii) A description of the proposed action, including (where appropriate) suggested regulatory language; and

(iv) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(c) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice will be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period will be a minimum of twenty-one days.

(d) Upon the written request of any interested person, the director may, at his discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold a conference.

(e) After evaluating all public comments the department will make a final decision in accordance with RCW 34.05.-330 or 34.05.240. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition and, when appropriate, initiate rule-making proceedings in accordance with RCW 34.05.330.

(2) Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a testing or analytical method to WAC 173-303-110 may petition for a regulatory amendment under this section. To be successful, the person

must demonstrate to the satisfaction of the department that the proposed method is equal to or superior to the corresponding method prescribed in WAC 173-303-110, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) Each petition must include, in addition to the information required by subsection (1) of this section:

(i) A full description of the proposed method, including all procedural steps and equipment used in the method;

(ii) A description of the types of wastes or waste matrices for which the proposed method may be used;

(iii) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in WAC 173-303-110;

(iv) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and

(v) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(c) After receiving a petition for an equivalent testing or analytical method, the department may request any additional information on the proposed method which it may reasonably require to evaluate the proposal.

(d) If the department amends the regulations to permit use of a new testing method, the method will be incorporated at WAC 173-303-110(3) and in a document which will be available from the department.

(3) Petitions for exempting dangerous wastes from a particular generator. Note that a generator must also petition the U.S. EPA to exempt their waste if it is a federally listed waste.

(a) Any generator seeking to exempt his dangerous waste may petition the department for exemption from the requirements of WAC 173-303-070 through 173-303-100.

(b) To be successful, the generator must make the demonstrations required in WAC 173-303-072(3) and, where applicable, (4).

(c) Each petition must include, in addition to the information required by subsection (1) of this section:

(i) The name and address of the laboratory facility performing the sampling or tests of the waste;

(ii) The names and qualifications of the persons sampling and testing the waste;

(iii) The dates of sampling and testing;

(iv) The location of the generating facility;

(v) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;

(vi) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;

(vii) Pertinent data on and discussion of the factors delineated in WAC 173-303-072(3) and, where applicable, (4);

(viii) A description of the methodologies and equipment used to obtain the representative samples;

(ix) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;

(x) A description of the tests performed (including results);

(xi) The names and model numbers of the instruments used in performing the tests and the date of the last calibration for instruments which must be calibrated according to manufacturer's instructions; and

(xii) The following statement signed by the generator of the waste or his authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) After receiving a petition for a dangerous waste exemption, the department may request any additional information which it may reasonably require to evaluate the petition.

(e) An exemption will only apply to the waste generated by the particular generator covered by the demonstration and will not apply to waste from any other generator.

(f) The department may exempt only part of the waste for which the demonstration is submitted where there is reason to believe that variability of the waste justifies a partial exemption.

(g) The department may (but will not be required to) grant a temporary exemption before making a final decision under subsection (1) of this section, whenever it finds that there is a substantial likelihood that an exemption will be finally granted.

(h) Any waste for which an exemption is sought will remain designated and be subject to the applicable requirements of this chapter until the generator of the waste is notified by the department that his waste is exempt.

(4) Petition for exclusion.

(a) Any generators seeking exclusion of a class of similar or identical wastes under WAC 173-303-071, excluded categories of waste, may petition the department for exclusion. To be successful, the generator(s) must make the demonstrations required in WAC 173-303-072(6) for all those wastes generated in the state which might be excluded pursuant to granting a petition submitted under this subsection. No class of wastes will be excluded if any of the wastes are regulated as hazardous waste under 40 C.F.R. Part 261.

(b) Each petition for exclusion must include the information required by subsections (1) and (3)(c) of this section and any other information required by the department.

(c) After receiving a petition for exclusion, the department may request any additional information it deems necessary to evaluate the petition.

(5) Petition for designation change. The provisions of (a)(i) of this subsection do not apply to any dangerous waste which is also designated as a hazardous waste under 40 C.F.R. Part 261, Subpart D.

(a) A generator may petition the department to change the designation of his waste as follows:

(i) A waste which is designated only for toxicity pursuant to WAC 173-303-100 but which is toxic solely because it is highly acidic or basic (i.e., due to high or low pH) may be subject only to the requirements for corrosive dangerous wastes, provided that the generator can demonstrate this fact to the department's satisfaction through information provided under (b) of this subsection; and

(ii) A waste which is designated EHW may be redesignated DW, provided that the generator can demonstrate that such redesignation is appropriate through information provided under (b) of this subsection.

(b) A petition under this subsection must include:

(i) The information required by subsections (1) and (3) of this section; and

(ii) Such other information as required by the department.

(c) A designation change under this subsection will become effective only after the department has approved the change and notified the generator of such approval.

(6) Petitions to allow land disposal of a waste restricted under WAC 173-303-140.

(a) Any person seeking a land disposal restriction exemption allowed under WAC 173-303-140(6) must submit a petition to the department. The petition must include the following general information:

(i) The petitioner's name and address;

(ii) A statement of the petitioner's interest in the proposed action;

(iii) A description of the proposed action;

(iv) A statement of the need and justification for the proposed action;

(v) An identification of the specific waste and the specific land disposal unit for which the exemption is desired;

(vi) A waste analysis to describe fully the chemical and physical characteristics of the subject waste. All waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow; and

(vii) A quality assurance and quality control plan that addresses all sampling and testing aspects of the information provided in the petition.

(b) In addition to the general information requirements in subsection (a) of this section, the following specific information must be provided in the petition for individual case-by-case exemptions.

(i) Petition for land disposal exemption for treatment residuals. Petitions for exemption of treatment residuals, as allowed under WAC 173-303-140 (6)(a), must:

(A) Provide the type of waste management or treatment method applied to the waste and the rationale for selecting this method as the best achievable management method; and

(B) Document that the land disposal of the treatment residual would not pose a greater risk to public health and the environment than land disposal of the original wastes, including an analysis of the treatment residuals to fully describe their chemical and physical characteristics; and

(C) Provide the management alternatives for the treatment residuals and the factors which, if an exemption is not

granted, would prevent the utilization of the best achievable management method for the original dangerous waste.

(ii) Petition for economic hardship exemption. Petitions for exemption on the basis of economic hardship, as allowed under WAC 173-303-140 (6)(b), must:

(A) Supply the current management costs and the projected management costs to comply with the requirements of WAC 173-303-140; and

(B) Provide the source of information utilized in determining the economic estimates; and

(C) Provide a discussion of how the projected compliance costs would impose an unreasonable economic burden.

(iii) Petition for leachable inorganic waste exemption. Petitions for exemption of leachable inorganic wastes, as allowed under WAC 173-303-140 (6)(c), must:

(A) Provide information demonstrating that the stabilization of the dangerous waste is less protective of public health and the environment than landfilling; or

(B) Provide a list of stabilization facilities that could accept the dangerous waste and information demonstrating that they do not have available capacity to stabilize the waste; or

(C) Provide information describing the types of stabilization utilized which did not reduce the solubility and mobility of the dangerous waste constituents and describe any other stabilization methods that have been considered but not utilized.

(iv) Petition for organic/carbonaceous waste exemption. Petitions for exemption of organic/carbonaceous wastes, as allowed under WAC 173-303-140 (6)(c), must:

(A) Provide information demonstrating that recycling, treatment and incineration facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; or

(B) Provide information demonstrating that the alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization and landfilling; or

(C) Provide information demonstrating that:

(I) Recycling and treatment facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; and

(II) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or a moisture content greater than sixty-five percent.

(c) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false informa-

tion, including the possibility of fine and imprisonment.

(d) Each petition must be submitted to:

Department of Ecology
 HWTR Program
 Attn Land Disposal Exemption
 P.O. Box 47600
 Olympia, WA 98504-7600

(e) After receiving a petition, the department may request any additional information that reasonably may be required to evaluate the petition and accompanying demonstration, such as a comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality. Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements.

(f)(i) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice will be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period will be a minimum of twenty-one days.

(ii) Upon the written request of any interested person, the department may, at its discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The department may in any case decide on its own motion to hold a conference.

(iii) After evaluating all public comments the department will make a final decision in accordance with RCW (~~34.04.060 or 34.04.080~~) 34.05.240 or 34.05.330. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition.

(g) Prior to the department's decision, the applicant is required to comply with all restrictions on land disposal under WAC 173-303-140. The department should respond to a petition within ninety days.

(h) If an exemption is granted, the department may include specific conditions as deemed necessary by the department to protect public health and the environment.

(i) If granted, the exemption will apply to land disposal of the specific restricted waste at the individual disposal unit described in the petition and accompanying demonstration. The exemption will not apply to any other restricted waste at that disposal unit, nor will it apply to that specific restricted waste at any other disposal unit.

(j) If an exemption is granted, the department may withdraw the exemption on the following bases:

(i) If there is a threat to public health and the environment; or

(ii) If there is migration of dangerous waste constituents from the land disposal unit or site for as long as the waste remains dangerous; or

(iii) If the department finds reason to believe that the information submitted in a petition is inaccurate or has been falsified such that the petition should have been denied.

(k) The term of an exemption granted under this subsection will be established by the department at the time of issuance.

(l) Any exemption granted by the department does not relieve the petitioner of his responsibilities in the management of dangerous waste under chapter 173-303 WAC.

(m) The department may (but will not be required to) grant a temporary exemption before making a final decision, whenever it finds that there is a substantial likelihood that an exemption will be finally granted. Temporary exemptions will not be subject to the procedures of (f) of this subsection. Temporary exemptions will not be a cause of delaying final decision making on the petition request.

(7) Petitions to amend WAC 173-303-573 to include additional dangerous wastes.

(a) Any person seeking to add a dangerous waste or a category of dangerous waste to the universal waste regulations of WAC 173-303-573 may petition for a regulatory amendment under this section and WAC 173-303-573 (39) and (40).

(b) To be successful, the petitioner must demonstrate to the satisfaction of the department that regulation under the universal waste regulations of WAC 173-303-573: Is appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the dangerous waste program. The petition must include the information required by subsection (1) of this section. The petition should also address as many of the factors listed in WAC 173-303-573(40) as are appropriate for the waste or category of waste addressed in the petition.

(c) The department will grant or deny a petition using the factors listed in WAC 173-303-573(40). The decision will be based on the weight of evidence showing that regulation under WAC 173-303-573 is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the dangerous waste program.

(d) The department may request additional information needed to evaluate the merits of the petition.

AMENDATORY SECTION (Amending WSR 19-04-038, filed 1/28/19, effective 4/28/19)

WAC 173-303-9903 Discarded chemical products list.

Discarded Chemical Products List

"P" Chemical Products

Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound is only listed for acute toxicity. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Dangerous Waste Number.

The "P" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P070	116-06-3	Aldicarb
P203	1646-88-4	Aldicarb sulfone
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P010	7778-39-4	Arsenic acid H ₃ AsO ₄
P012	1327-53-3	Arsenic oxide As ₂ O ₃
P011	1303-28-2	Arsenic oxide As ₂ O ₅
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl-
P036	696-28-6	Arsonous dichloride, phenyl-
P054	151-56-4	Aziridine
P067	75-55-8	Aziridine, 2-methyl-
P013	542-62-1	Barium cyanide
P024	106-47-8	Benzenamine, 4-chloro-
P077	100-01-6	Benzenamine, 4-nitro-
P028	100-44-7	Benzene, (chloromethyl)-
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P046	122-09-8	Benzeneethanamine, alpha,alpha-dimethyl-
P014	108-98-5	Benzenethiol
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P001	181-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P028	100-44-7	Benzyl chloride
P015	7440-41-7	Beryllium powder
P017	598-31-2	Bromoacetone
P018	357-57-3	Brucine
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-

The "P" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
		[(methylamino)carbonyl] oxime
P021	592-01-8	Calcium cyanide
P189	55285-14-8	Carbamic acid, [(dibutylamino)thio]methyl-, 2,3-dihydro-2,2-dimethyl- 7-benzofuranlyl ester
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]- 5-methyl- 1H-pyrazol-3-yl ester
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl- 1-(1-methylethyl)-1H- pyrazol-5-yl ester
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P127	1563-66-2	Carbofuran
P021	592-01-8	Calcium cyanide Ca(CN) ₂
P022	75-15-0	Carbon disulfide
P189	55285-14-8	Carbosulfan
P095	75-44-5	Carbonic dichloride
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P027	542-76-7	3-Chloropropionitrile
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P202	64-00-6	m-Cumenyl methylcarbamate
P030		Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P016	542-88-1	Dichloromethyl ether
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P038	692-42-2	Diethylarsine
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P191	644-64-4	Dimetilan
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha,4alpha,4beta,5alpha,8alpha,8beta)-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha,4alpha,4beta,5beta,8beta,8beta)-
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1alpha,2beta,2alpha,3beta,6beta,6alpha,7beta, 7alpha)-

The "P" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P051	172-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2beta,3alpha,6alpha,6beta,7beta, 7alpha)-, & metabolites
P044	60-51-5	Dimethoate
P046	122-09-8	alpha,alpha-Dimethylphenethylamine
P047	1534-52-1	4,6-Dinitro-o-cresol, & salts
P048	51-28-5	2,4-Dinitrophenol
P020	88-85-7	Dinoseb
P085	152-16-9	Diphosphoramidate, octamethyl-
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P039	298-04-4	Disulfoton
P049	541-53-7	Dithiobiuret
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O- [(methylamino)-carbonyl]oxime
P050	115-29-7	Endosulfan
P088	145-73-3	Endothall
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P042	51-43-4	Epinephrine
P031	460-19-5	Ethanedinitrile
P194	23135-22-0	Ethanimidothioic acid, 2-(dimethylamino)-N-[[[(methylamino)carbonyl]oxy]-2-oxo-, methyl ester
P066	16752-77-5	Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester
P101	107-12-0	Ethyl cyanide
P054	151-56-4	Ethyleneimine
P097	52-85-7	Famphur
P056	7782-41-4	Fluorine
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Fluoroacetic acid, sodium salt
P198	23422-53-9	Formetanate hydrochloride
P197	17702-57-7	Formparanate
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)
P059	76-44-8	Heptachlor
P062	757-58-4	Hexaethyl tetraphosphate
P116	79-19-6	Hydrazinecarbothioamide
P068	60-34-4	Hydrazine, methyl-
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P096	7803-51-2	Hydrogen phosphide
P060	465-73-6	Isodrin
P192	119-38-0	Isolan
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-

The "P" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P196	15339-36-3	Manganese, bis(dimethylcarbamodithioato-S,S')-
P196	15339-36-3	Manganese dimethyldithiocarbamate
P092	62-38-4	Mercury, (acetato-O)phenyl-
P065	628-86-4	Mercury fulminate (R,T)
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)carbonyl]oxy]phenyl]-, monohydrochloride
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]-
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P064	624-83-9	Methane, isocyanato-
P016	542-88-1	Methane, oxybis[chloro-
P112	509-14-8	Methane, tetranitro- (R)
P118	75-70-7	Methanethiol, trichloro-
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P199	2032-65-7	Methiocarb
P066	16752-77-5	Methomyl
P068	60-34-4	Methyl hydrazine
P064	624-83-9	Methyl isocyanate
P069	75-86-5	2-Methylactonitrile
P071	298-00-0	Methyl parathion
P190	1129-41-5	Metolcarb
P128	315-18-4	Mexacarbate
P072	86-88-4	alpha-Naphthylthiourea
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO) ₄ , (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN) ₂
P075	154-11-5	Nicotine, & salts (<u>this listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies</u>)
P076	10102-43-9	Nitric oxide
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P076	10102-43-9	Nitrogen oxide NO
P078	10102-44-0	Nitrogen oxide NO ₂
P081	55-63-0	Nitroglycerine (R)
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P085	152-16-9	Octamethylpyrophosphoramidate
P087	20816-12-0	Osmium oxide OsO ₄ , (T-4)-

The "P" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P194	23135-22-0	Oxamyl
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P048	51-28-5	Phenol, 2,4-dinitro-
P047	¹ 534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P094	298-02-2	Phorate
P095	75-44-5	Phosgene
P096	7803-51-2	Phosphine
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
P043	55-91-4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P204	57-47-6	Physostigmine
P188	57-64-7	Physostigmine salicylate
P110	78-00-2	Plumbane, tetraethyl-
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Potassium silver cyanide
P201	2631-37-0	Promecarb
P203	1646-88-4	Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino)carbonyl] oxime
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime

The "P" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P101	107-12-0	Propanenitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P017	598-31-2	2-Propanone, 1-bromo-
P102	107-19-7	Propargyl alcohol
P003	107-02-8	2-Propenal
P005	107-18-6	2-Propen-1-ol
P067	75-55-8	1,2-Propylenimine
P102	107-19-7	2-Propyn-1-ol
P008	504-24-5	4-Pyridinamine
P075	¹ 54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, & salts (this listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies)
P204	57-47-6	Pyrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P114	12039-52-0	Selenious acid, dithallium(1+) salt
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	¹ 57-24-9	Strychnidin-10-one, & salts
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P108	¹ 57-24-9	Strychnine, & salts
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt
P109	3689-24-5	Tetraethyldithiopyrophosphate
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Tetranitromethane (R)
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl ₂ O ₃
P114	12039-52-0	Thallium(I) selenite
P115	7446-18-6	Thallium(I) sulfate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P045	39196-18-4	Thiofanox
P049	541-53-7	Thioimidodicarbonic diamide [(H ₂ N)C(S)] ₂ NH
P014	108-98-5	Thiophenol
P116	79-19-6	Thiosemicarbazide
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P072	86-88-4	Thiourea, 1-naphthalenyl-
P093	103-85-5	Thiourea, phenyl-

The "P" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P185	26419-73-8	Tirpate
P123	8001-35-2	Toxaphene
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide V ₂ O ₅
P120	1314-62-1	Vanadium pentoxide
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P001	181-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P205	137-30-4	Zinc, bis(dimethylcarbamodithioato-S,S')-
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN) ₂
P122	1314-84-7	Zinc phosphide Zn ₃ P ₂ , when present at concentrations greater than 10% (R,T)
P205	137-30-4	Ziram

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P001	181-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P001	181-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P002	591-08-2	Acetamide, -(aminothioxomethyl)-
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P003	107-02-8	2-Propenal
P004	309-00-2	Aldrin
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha,4alpha,4abeta,5alpha,8alpha,8abeta)-
P005	107-18-6	Allyl alcohol
P005	107-18-6	2-Propen-1-ol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P008	504-24-5	4-Aminopyridine
P008	504-24-5	4-Pyridinamine
P009	131-74-8	Ammonium picrate (R)
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P010	7778-39-4	Arsenic acid H ₃ AsO ₄
P011	1303-28-2	Arsenic oxide As ₂ O ₅
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic oxide As ₂ O ₃
P012	1327-53-3	Arsenic trioxide
P013	542-62-1	Barium cyanide
P014	108-98-5	Benzenethiol

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P014	108-98-5	Thiophenol
P015	7440-41-7	Beryllium powder
P016	542-88-1	Dichloromethyl ether
P016	542-88-1	Methane, oxybis[chloro-
P017	598-31-2	Bromoacetone
P017	598-31-2	2-Propanone, 1-bromo-
P018	357-57-3	Brucine
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P020	88-85-7	Dinoseb
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide Ca(CN) ₂
P022	75-15-0	Carbon disulfide
P023	107-20-0	Acetaldehyde, chloro-
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	Benzenamine, 4-chloro-
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P027	542-76-7	3-Chloropropionitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P028	100-44-7	Benzene, (chloromethyl)-
P028	100-44-7	Benzyl chloride
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P030		Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P031	460-19-5	Ethanedinitrile
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6- dinitrophenol
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P036	696-28-6	Arsonous dichloride, phenyl-
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1alpha,2beta,2alpha,3beta,6beta,6alpha,7beta, 7alpha)-
P038	692-42-2	Arsine, diethyl-
P038	692-42-2	Diethylarsine
P039	298-04-4	Disulfoton
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl]ester
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P042	51-43-4	Epinephrine
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P043	55-91-4	Phosphorofluoridic acid, bis(1-methyl-ethyl) ester
P044	60-51-5	Dimethoate
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methyl amino)-2-oxoethyl] ester
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[(methylamino)carbonyl]oxime
P045	39196-18-4	Thiofanox
P046	122-09-8	Benzeneethanamine, alpha, alpha-dimethyl-
P046	122-09-8	alpha, alpha-Dimethylphenethylamine
P047	534-52-1	4,6-Dinitro-o-cresol, & salts
P047	534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P048	51-28-5	2,4-Dinitrophenol
P048	51-28-5	Phenol, 2,4-dinitro-
P049	541-53-7	Dithiobiuret
P049	541-53-7	Thioimidodicarbonic diamide[(H2N)C(S)]2 NH
P050	115-29-7	Endosulfan
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P051	172-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha,6alpha,6abeta,7beta,7aalpha)-, & metabolites
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P054	151-56-4	Aziridine
P054	151-56-4	Ethyleneimine
P056	7782-41-4	Fluorine
P057	640-19-7	Acetamide, 2-fluoro-
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P058	62-74-8	Fluoroacetic acid, sodium salt
P059	76-44-8	Heptachlor
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta,8beta,8abeta)-
P060	465-73-6	Isodrin
P062	757-58-4	Hexaethyl tetraphosphate
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P064	624-83-9	Methane, isocyanato-

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P064	624-83-9	Methyl isocyanate
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)
P065	628-86-4	Mercury fulminate (R,T)
P066	16752-77-5	Ethanimidothioic acid, N-[[[(methylamino)carbonyl]oxy]-, methyl ester
P066	16752-77-5	Methomyl
P067	75-55-8	Aziridine, 2-methyl-
P067	75-55-8	1,2-Propyleneimine
P068	60-34-4	Hydrazine, methyl-
P068	60-34-4	Methyl hydrazine
P069	75-86-5	2-Methylactonitrile
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P070	116-06-3	Aldicarb
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P071	298-00-0	Methyl parathion
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl)ester
P072	86-88-4	alpha-Naphthylthiourea
P072	86-88-4	Thiourea, 1-naphthalenyl-
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl Ni(CO)4, (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide Ni(CN)2
P075	54-11-5	Nicotine, & salts (<u>this listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies</u>)
P075	154-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, & salts (<u>this listing does not include patches, gums, and lozenges that are FDA-approved over-the-counter nicotine replacement therapies</u>)
P076	10102-43-9	Nitric oxide
P076	10102-43-9	Nitrogen oxide NO
P077	100-01-6	Benzenamine, 4-nitro-
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P078	10102-44-0	Nitrogen oxide NO2
P081	55-63-0	Nitroglycerine (R)
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P082	62-75-9	Methanamine, -methyl-N-nitroso-
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P084	4549-40-0	Vinylamine, -methyl-N-nitroso-
P085	152-16-9	Diphosphoramidate, octamethyl-
P085	152-16-9	Octamethylpyrophosphoramidate
P087	20816-12-0	Osmium oxide OsO4, (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	Endothall
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P089	56-38-2	Parathion
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl)ester
P092	62-38-4	Mercury, (acetato-O)phenyl-
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P093	103-85-5	Thiourea, phenyl-
P094	298-02-2	Phorate
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl]ester
P095	75-44-5	Carbonic dichloride
P095	75-44-5	Phosgene
P096	7803-51-2	Hydrogen phosphide
P096	7803-51-2	Phosphine
P097	52-85-7	Famphur
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethyl-amino)sulfonyl]phenyl]O,O-dimethyl ester
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Argentate(1-), bis(cyano-C)-,potassium
P099	506-61-6	Potassium silver cyanide
P101	107-12-0	Ethyl cyanide
P101	107-12-0	Propanenitrile
P102	107-19-7	Propargyl alcohol
P102	107-19-7	2-Propyn-1-ol
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	157-24-9	Strychnidin-10-one, & salts
P108	157-24-9	Strychnine, & salts
P109	3689-24-5	Tetraethyldithiopyrophosphate
P109	3689-24-5	Thiodiphosphoric acid,tetraethyl ester
P110	78-00-2	Plumbane, tetraethyl-
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Diphosphoric acid, tetraethylester
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Methane, tetranitro-(R)
P112	509-14-8	Tetranitromethane (R)
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl2 O3
P114	12039-52-0	Selenious acid,dithallium(1+) salt
P114	12039-52-0	Thallium(I) selenite
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt
P115	7446-18-6	Thallium(I) sulfate
P116	79-19-6	Hydrazinecarbothioamide
P116	79-19-6	Thiosemicarbazide
P118	75-70-7	Methanethiol, trichloro-

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Ammonium vanadate
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide V2O5
P120	1314-62-1	Vanadium pentoxide
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN)2
P122	1314-84-7	Zinc phosphide Zn3 P2, when present at concentrations greater than 10% (R,T)
P123	8001-35-2	Toxaphene
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-,methylcarbamate
P127	1563-66-2	Carbofuran
P128	315-18-4	Mexacarbate
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate(ester)
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)-carbonyl]oxime
P185	26419-73-8	Tirpate
P188	57-64-7	Benzoic acid, 2-hydroxy-,compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P188	57-64-7	Physostigmine salicylate
P189	55285-14-8	Carbamic acid,[(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P189	55285-14-8	Carbosulfan
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P190	1129-41-5	Metolcarb
P191	644-64-4	Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P191	644-64-4	Dimetilan
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P192	119-38-0	Isolan
P194	23135-22-0	Ethanimidthioic acid, 2-(dimethylamino)-N-[[[(methylamino)carbonyl]oxy]-2-oxo-, methylester
P194	23135-22-0	Oxamyl
P196	15339-36-3	Manganese,bis(dimethylcarbomodithioato-S,S')-,
P196	15339-36-3	Manganesedimethyldithiocarbamate
P197	17702-57-7	Formparanate
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[[(methylamino)carbonyl]oxy]phenyl]-
P198	23422-53-9	Formetanate hydrochloride
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-[3-[[[(methylamino)-carbonyl]oxy]phenyl]-monohydrochloride

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
P199	2032-65-7	Methiocarb
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-,methylcarbamate
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methylcarbamate
P201	2631-37-0	Promecarb
P202	64-00-6	m-Cumenyl methylcarbamate
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-,methyl carbamate
P203	1646-88-4	Aldicarb sulfone
P203	1646-88-4	Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino)carbonyl]oxime
P204	57-47-6	Physostigmine
P204	57-47-6	Pyrrolo[2,3-b]indol-5-ol,1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-,methylcarbamate (ester),(3aS-cis)-
P205	137-30-4	Zinc, bis (dimethylcarbomodithioato-S,S')-,
P205	137-30-4	Ziram

FOOTNOTE: ¹ CAS Number given for parent compound only.

"U" Chemical Products

Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Dangerous Waste Number.

The "U" wastes and their corresponding Dangerous Waste Numbers are:**Alphabetical List**

Dangerous Waste No.	Chemical Abstracts No.	Substance
U394	30558-43-1	A2213
U001	75-07-0	Acetaldehyde (I)
U034	75-87-6	Acetaldehyde, trichloro-
U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)-
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl-
U240	¹ 94-75-7	Acetic acid, (2,4-dichlorophenoxy)-, salts & esters
U112	141-78-6	Acetic acid ethyl ester (I)
U144	301-04-2	Acetic acid, lead(2+) salt
U214	563-68-8	Acetic acid, thallium(1+) salt
See F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
U002	67-64-1	Acetone (I)
U003	75-05-8	Acetonitrile (I,T)
U004	98-86-2	Acetophenone
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)

The "U" wastes and their corresponding Dangerous Waste Numbers are:**Alphabetical List**

Dangerous Waste No.	Chemical Abstracts No.	Substance
U007	79-06-1	Acrylamide
U008	79-10-7	Acrylic acid (I)
U009	107-13-1	Acrylonitrile
U011	61-82-5	Amitrole
U012	62-53-3	Aniline (I,T)
U136	75-60-5	Arsinic acid, dimethyl-
U014	492-80-8	Auramine
U015	115-02-6	Azaserine
U010	50-07-7	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-, [1aS-(1alpha,8beta,8aalp,8balp)]-
U280	101-27-9	Barban
U278	22781-23-3	Bendiocarb
U364	22961-82-6	Bendiocarb phenol
U271	17804-35-2	Benomyl
U157	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U016	225-51-4	Benz[c]acridine
U017	98-87-3	Benzal chloride
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-
U018	56-55-3	Benz[a]anthracene
U094	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
U012	62-53-3	Benzenamine (I,T)
U014	492-80-8	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-, hydrochloride
U093	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U328	95-53-4	Benzenamine, 2-methyl-
U353	106-49-0	Benzenamine, 4-methyl-
U158	101-14-4	Benzenamine, 4,4'-methylenebis[2-chloro-
U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-
U019	71-43-2	Benzene (I,T)
U038	510-15-6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U037	108-90-7	Benzene, chloro-
U221	25376-45-8	Benzenediamine, ar-methyl-
U028	117-81-7	1,2-Benzenedicarboxylic acid,bis(2-ethylhexyl) ester
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
U070	95-50-1	Benzene, 1,2-dichloro-
U071	541-73-1	Benzene, 1,3-dichloro-
U072	106-46-7	Benzene, 1,4-dichloro-
U060	72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-
U017	98-87-3	Benzene, (dichloromethyl)-
U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl-(R,T)
U239	1330-20-7	Benzene, dimethyl- (I)
U201	108-46-3	1,3-Benzenediol
U127	118-74-1	Benzene, hexachloro-
U056	110-82-7	Benzene, hexahydro- (I)
U220	108-88-3	Benzene, methyl-
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-
U055	98-82-8	Benzene, (1-methylethyl)- (I)
U169	98-95-3	Benzene, nitro-
U183	608-93-5	Benzene, pentachloro-
U185	82-68-8	Benzene, pentachloronitro-
U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U020	98-09-9	Benzenesulfonyl chloride (C,R)
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-
U061	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-
U023	98-07-7	Benzene, (trichloromethyl)-
U234	99-35-4	Benzene, 1,3,5-trinitro-
U021	92-87-5	Benzidine
U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate
U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U064	189-55-9	Benzo[<i>rst</i>]pentaphene
U248	181-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, & salts, when present at concentrations of 0.3% or less
U022	50-32-8	Benzo[<i>a</i>]pyrene
U197	106-51-4	p-Benzoquinone
U023	98-07-7	Benzotrichloride (C,R,T)
U085	1464-53-5	2,2'-Bioxirane
U021	92-87-5	[1,1'-Biphenyl]-4,4'-diamine

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U073	91-94-1	[1,1'-Biphenyl]-4,4'-diamine,3,3'-dichloro-
U091	119-90-4	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-
U095	119-93-7	[1,1'-Biphenyl]-4,4'-diamine,3,3'-dimethyl-
U225	75-25-2	Bromoform
U030	101-55-3	4-Bromophenyl phenyl ether
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U031	71-36-3	1-Butanol (I)
U159	78-93-3	2-Butanone (I,T)
U160	1338-23-4	2-Butanone, peroxide (R,T)
U053	4170-30-3	2-Butenal
U074	764-41-0	2-Butene, 1,4-dichloro- (I,T)
U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-[[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-ylester, [1S-[1al-pha(Z),7(2S*,3R*), 7aalpha]]-
U031	71-36-3	n-Butyl alcohol (I)
U136	75-60-5	Cacodylic acid
U032	13765-19-0	Calcium chromate
U238	51-79-6	Carbamic acid, ethyl ester
U178	615-53-2	Carbamic acid, methylnitroso-,ethyl ester
U372	10605-21-7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U271	17804-35-2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester
U280	101-27-9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester
U373	122-42-9	Carbamic acid, phenyl-, 1-methylethyl ester
U409	23564-05-8	Carbamic acid, [1,2-phenylenebis(imino-carbonothioyl)]bis-, dimethyl ester
U097	79-44-7	Carbamic chloride, dimethyl-
U114	111-54-6	Carbamodithioic acid, 1,2-ethanediyldis-, salts & esters
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester
U389	2303-17-5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U387	52888-80-9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U279	63-25-2	Carbaryl
U372	10605-21-7	Carbendazim
U367	1563-38-8	Carbofuran phenol
U215	6533-73-9	Carbonic acid, dithallium(1+) salt
U033	353-50-4	Carbonic difluoride
U156	79-22-1	Carbonochloridic acid, methyl ester (I,T)
U033	353-50-4	Carbon oxyfluoride (R,T)
U211	56-23-5	Carbon tetrachloride

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U034	75-87-6	Chloral
U035	305-03-3	Chlorambucil
U036	57-74-9	Chlordane, alpha & gamma isomers
U026	494-03-1	Chlornaphazin
U037	108-90-7	Chlorobenzene
U038	510-15-6	Chlorobenzilate
U039	59-50-7	p-Chloro-m-cresol
U042	110-75-8	2-Chloroethyl vinyl ether
U044	67-66-3	Chloroform
U046	107-30-2	Chloromethyl methyl ether
U047	91-58-7	beta-Chloronaphthalene
U048	95-57-8	o-Chlorophenol
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
U032	13765-19-0	Chromic acid H ₂ CrO ₄ , calcium salt
U050	218-01-9	Chrysene
U051		Creosote
U052	1319-77-3	Cresol (Cresylic acid)
U053	4170-30-3	Crotonaldehyde
U055	98-82-8	Cumene (I)
U246	506-68-3	Cyanogen bromide (CN)Br
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione
U056	110-82-7	Cyclohexane (I)
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-
U057	108-94-1	Cyclohexanone (I)
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U058	50-18-0	Cyclophosphamide
U240	194-75-7	2,4-D, salts & esters
U059	20830-81-3	Daunomycin
U060	72-54-8	DDD
U061	50-29-3	DDT
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Dibenzo[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U069	84-74-2	Dibutyl phthalate
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	3,3'-Dichlorobenzidine
U074	764-41-0	1,4-Dichloro-2-butene (I,T)
U075	75-71-8	Dichlorodifluoromethane
U078	75-35-4	1,1-Dichloroethylene
U079	156-60-5	1,2-Dichloroethylene
U025	111-44-4	Dichloroethyl ether
U027	108-60-1	Dichloroisopropyl ether

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U024	111-91-1	Dichloromethoxy ethane
U081	120-83-2	2,4-Dichlorophenol
U082	87-65-0	2,6-Dichlorophenol
U084	542-75-6	1,3-Dichloropropene
U085	1464-53-5	1,2,3,4-Diepoxybutane (I,T)
U395	5952-26-1	Diethylene glycol, dicarbamate
U108	123-91-1	1,4-Diethyleneoxide
U028	117-81-7	Diethylhexyl phthalate
U086	1615-80-1	N,N'-Diethylhydrazine
U087	3288-58-2	O,O-Diethyl S-methyl dithiophosphate
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbesterol
U090	94-58-6	Dihydrosafrole
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (I)
U093	60-11-7	p-Dimethylaminoazobenzene
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha, alpha-Dimethylbenzylhydroperoxide (R)
U097	79-44-7	Dimethylcarbamoyl chloride
U098	57-14-7	1,1-Dimethylhydrazine
U099	540-73-8	1,2-Dimethylhydrazine
U101	105-67-9	2,4-Dimethylphenol
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U110	142-84-7	Dipropylamine (I)
U111	621-64-7	Di-n-propylnitrosamine
U041	106-89-8	Epichlorohydrin
U001	75-07-0	Ethanal (I)
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
U404	121-44-8	Ethanamine, N,N-diethyl-
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U067	106-93-4	Ethane, 1,2-dibromo-
U076	75-34-3	Ethane, 1,1-dichloro-
U077	107-06-2	Ethane, 1,2-dichloro-
U131	67-72-1	Ethane, hexachloro-
U024	111-91-1	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-
U117	60-29-7	Ethane, 1,1'-oxybis-(I)
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
U184	76-01-7	Ethane, pentachloro-

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U218	62-55-5	Ethanethioamide
U226	71-55-6	Ethane, 1,1,1-trichloro-
U227	79-00-5	Ethane, 1,1,2-trichloro-
U410	59669-26-0	Ethanimidothioic acid, N,N'-[thio-bis((methylimino) carbonyloxy)]bis-, dimethyl ester
U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino) - N-hydroxy-2-oxo-, methyl ester
U359	110-80-5	Ethanol, 2-ethoxy-
U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U395	5952-26-1	Ethanol, 2,2'-oxybis-, dicarbamate
U004	98-86-2	Ethanone, 1-phenyl-
U043	75-01-4	Ethene, chloro-
U042	110-75-8	Ethene, (2-chloroethoxy)-
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U210	127-18-4	Ethene, tetrachloro-
U228	79-01-6	Ethene, trichloro-
U112	141-78-6	Ethyl acetate (I)
U113	140-88-5	Ethyl acrylate (I)
U238	51-79-6	Ethyl carbamate (urethane)
U117	60-29-7	Ethyl ether (I)
U114	¹ 111-54-6	Ethylenebisdithiocarbamic acid,salts & esters
U067	106-93-4	Ethylene dibromide
U077	107-06-2	Ethylene dichloride
U359	110-80-5	Ethylene glycol monoethyl ether
U115	75-21-8	Ethylene oxide (I,T)
U116	96-45-7	Ethylenethiourea
U076	75-34-3	Ethylidene dichloride
U118	97-63-2	Ethyl methacrylate
U119	62-50-0	Ethyl methanesulfonate
U120	206-44-0	Fluoranthene
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (I)
U125	98-01-1	2-Furancarboxaldehyde (I)
U147	108-31-6	2,5-Furandione
U213	109-99-9	Furan, tetrahydro-(I)
U125	98-01-1	Furfural (I)
U124	110-00-9	Furfuran (I)
U206	18883-66-4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U206	18883-66-4	D-Glucose, 2-deoxy-2-[[[(methylnitrosoamino)-carbonyl]amino]-
U126	765-34-4	Glycidylaldehyde

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	Hexachlorobutadiene
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene
U243	1888-71-7	Hexachloropropene
U133	302-01-2	Hydrazine (R,T)
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U098	57-14-7	Hydrazine, 1,1-dimethyl-
U099	540-73-8	Hydrazine, 1,2-dimethyl-
U109	122-66-7	Hydrazine, 1,2-diphenyl-
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U135	7783-06-4	Hydrogen sulfide H ₂ S
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl-(R)
U116	96-45-7	2-Imidazolidinethione
U137	193-39-5	Indeno[1,2,3-cd]pyrene
U190	85-44-9	1,3-Isobenzofurandione
U140	78-83-1	Isobutyl alcohol (I,T)
U141	120-58-1	Isosafrole
U142	143-50-0	Kepon
U143	303-34-4	Lasiocarpine
U144	301-04-2	Lead acetate
U146	1335-32-6	Lead, bis(acetato-O)tetrahydroxytri-
U145	7446-27-7	Lead phosphate
U146	1335-32-6	Lead subacetate
U129	58-89-9	Lindane
U163	70-25-7	MNNG
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U149	109-77-3	Malononitrile
U150	148-82-3	Melphalan
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (I, T)
U092	124-40-3	Methanamine, N-methyl- (I)
U029	74-83-9	Methane, bromo-
U045	74-87-3	Methane, chloro- (I, T)
U046	107-30-2	Methane, chloromethoxy-
U068	74-95-3	Methane, dibromo-
U080	75-09-2	Methane, dichloro-
U075	75-71-8	Methane, dichlorodifluoro-
U138	74-88-4	Methane, iodo-
U119	62-50-0	Methanesulfonic acid, ethyl ester
U211	56-23-5	Methane, tetrachloro-

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U153	74-93-1	Methanethiol (I, T)
U225	75-25-2	Methane, tribromo-
U044	67-66-3	Methane, trichloro-
U121	75-69-4	Methane, trichlorofluoro-
U036	57-74-9	4,7-Methano-1H-indene,1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U154	67-56-1	Methanol (I)
U155	91-80-5	Methapyrilene
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one,1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U247	72-43-5	Methoxychlor
U154	67-56-1	Methyl alcohol (I)
U029	74-83-9	Methyl bromide
U186	504-60-9	1-Methylbutadiene (I)
U045	74-87-3	Methyl chloride (I,T)
U156	79-22-1	Methyl chlorocarbonate (I,T)
U226	71-55-6	Methyl chloroform
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U068	74-95-3	Methylene bromide
U080	75-09-2	Methylene chloride
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U138	74-88-4	Methyl iodide
U161	108-10-1	Methyl isobutyl ketone (I)
U162	80-62-6	Methyl methacrylate (I,T)
U161	108-10-1	4-Methyl-2-pentanone (I)
U164	56-04-2	Methylthiouracil
U010	50-07-7	Mitomycin C
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U167	134-32-7	1-Naphthalenamine
U168	91-59-8	2-Naphthalenamine
U026	494-03-1	Naphthalenamine, N,N'-bis(2-chloroethyl)-
U165	91-20-3	Naphthalene
U047	91-58-7	Naphthalene, 2-chloro-
U166	130-15-4	1,4-Naphthalenedione
U236	72-57-1	2,7-Naphthalenedisulfonic acid,3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)bis[5-amino-4-hydroxy]-, tetrasodium salt
U279	63-25-2	1-Naphthalenol, methylcarbamate
U166	130-15-4	1,4-Naphthoquinone
U167	134-32-7	alpha-Naphthylamine
U168	91-59-8	beta-Naphthylamine
U217	10102-45-1	Nitric acid, thallium(1+) salt

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U169	98-95-3	Nitrobenzene (I,T)
U170	100-02-7	p-Nitrophenol
U171	79-46-9	2-Nitropropane (I,T)
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	N-Nitrosodiethanolamine
U174	55-18-5	N-Nitrosodiethylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U177	684-93-5	N-Nitroso-N-methylurea
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U180	930-55-2	N-Nitrosopyrrolidine
U181	99-55-8	5-Nitro-o-toluidine
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U115	75-21-8	Oxirane (I,T)
U126	765-34-4	Oxiranecarboxyaldehyde
U041	106-89-8	Oxirane, (chloromethyl)-
U182	123-63-7	Paraldehyde
U183	608-93-5	Pentachlorobenzene
U184	76-01-7	Pentachloroethane
U185	82-68-8	Pentachloronitrobenzene (PCNB)
See F027	87-86-5	Pentachlorophenol
U161	108-10-1	Pentanol, 4-methyl-
U186	504-60-9	1,3-Pentadiene (I)
U187	62-44-2	Phenacetin
U188	108-95-2	Phenol
U048	95-57-8	Phenol, 2-chloro-
U039	59-50-7	Phenol, 4-chloro-3-methyl-
U081	120-83-2	Phenol, 2,4-dichloro-
U082	87-65-0	Phenol, 2,6-dichloro-
U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U101	105-67-9	Phenol, 2,4-dimethyl-
U052	1319-77-3	Phenol, methyl-
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U170	100-02-7	Phenol, 4-nitro-
See F027	87-86-5	Phenol, pentachloro-
See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro-
See F027	95-95-4	Phenol, 2,4,5-trichloro-
See F027	88-06-2	Phenol, 2,4,6-trichloro-
U150	148-82-3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U145	7446-27-7	Phosphoric acid, lead(2+) salt (2:3)
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl S-methyl ester

The "U" wastes and their corresponding Dangerous Waste Numbers are:**Alphabetical List**

Dangerous Waste No.	Chemical Abstracts No.	Substance
U189	1314-80-3	Phosphorus sulfide (R)
U190	85-44-9	Phthalic anhydride
U191	109-06-8	2-Picoline
U179	100-75-4	Piperidine, 1-nitroso-
U192	23950-58-5	Pronamide
U194	107-10-8	1-Propanamine (I,T)
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-
U110	142-84-7	1-Propanamine, N-propyl- (I)
U066	96-12-8	Propane, 1,2-dibromo-3-chloro-
U083	78-87-5	Propane, 1,2-dichloro-
U149	109-77-3	Propanedinitrile
U171	79-46-9	Propane, 2-nitro- (I,T)
U027	108-60-1	Propane, 2,2'-oxybis[2-chloro-
U193	1120-71-4	1,3-Propane sultone
See F027	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophe- noxy)-
U235	126-72-7	1-Propanol, 2,3-dibromo-,phosphate (3:1)
U140	78-83-1	1-Propanol, 2-methyl- (I,T)
U002	67-64-1	2-Propanone (I)
U007	79-06-1	2-Propenamamide
U084	542-75-6	1-Propene, 1,3-dichloro-
U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
U009	107-13-1	2-Propenenitrile
U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U008	79-10-7	2-Propenoic acid (I)
U113	140-88-5	2-Propenoic acid, ethyl ester (I)
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
U162	80-62-6	2-Propenoic acid, 2-methyl-,methyl ester (I,T)
U373	122-42-9	Propham
U411	114-26-1	Propoxur
U387	52888-80-9	Prosulfocarb
U194	107-10-8	n-Propylamine (I,T)
U083	78-87-5	Propylene dichloride
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
U196	110-86-1	Pyridine
U191	109-06-8	Pyridine, 2-methyl-
U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2- chloroethyl)amino]-
U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6- methyl-2-thioxo-
U180	930-55-2	Pyrrolidine, 1-nitroso-
U200	50-55-5	Reserpine
U201	108-46-3	Resorcinol
U203	94-59-7	Safrole
U204	7783-00-8	Selenious acid
U204	7783-00-8	Selenium dioxide
U205	7488-56-4	Selenium sulfide

The "U" wastes and their corresponding Dangerous Waste Numbers are:**Alphabetical List**

Dangerous Waste No.	Chemical Abstracts No.	Substance
U205	7488-56-4	Selenium sulfide SeS ₂ (R,T)
U015	115-02-6	L-Serine, diazoacetate (ester)
See F027	93-72-1	Silvex (2,4,5-TP)
U206	18883-66-4	Streptozotocin
U103	77-78-1	Sulfuric acid, dimethyl ester
U189	1314-80-3	Sulfur phosphide (R)
See F027	93-76-5	2,4,5-T
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
U208	630-20-6	1,1,1,2-Tetrachloroethane
U209	79-34-5	1,1,2,2-Tetrachloroethane
U210	127-18-4	Tetrachloroethylene
See F027	58-90-2	2,3,4,6-Tetrachlorophenol
U213	109-99-9	Tetrahydrofuran (I)
U214	563-68-8	Thallium(I) acetate
U215	6533-73-9	Thallium(I) carbonate
U216	7791-12-0	Thallium(I) chloride
U216	7791-12-0	Thallium chloride TlCl
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Thioacetamide
U410	59669-26-0	Thiodicarb
U153	74-93-1	Thiomethanol (I,T)
U244	137-26-8	Thioperoxydicarbonic diamide [(H ₂ N)C(S)] ₂ S ₂ , tetramethyl-
U409	23564-05-8	Thiophanate-methyl
U219	62-56-6	Thiourea
U244	137-26-8	Thiram
U220	108-88-3	Toluene
U221	25376-45-8	Toluenediamine
U223	26471-62-5	Toluene diisocyanate (R,T)
U328	95-53-4	o-Toluidine
U353	106-49-0	p-Toluidine
U222	636-21-5	o-Toluidine hydrochloride
U389	2303-17-5	Triallate
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U226	71-55-6	1,1,1-Trichloroethane
U227	79-00-5	1,1,2-Trichloroethane
U228	79-01-6	Trichloroethylene
U121	75-69-4	Trichloromonofluoromethane
See F027	95-95-4	2,4,5-Trichlorophenol
See F027	88-06-2	2,4,6-Trichlorophenol
U404	121-44-8	Triethylamine
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-
U235	126-72-7	Tris(2,3-dibromopropyl)phosphate
U236	72-57-1	Trypan blue
U237	66-75-1	Uracil mustard
U176	759-73-9	Urea, N-ethyl-N-nitroso-

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U177	684-93-5	Urea, N-methyl-N-nitroso-
U043	75-01-4	Vinyl chloride
U248	181-81-2	Warfarin, & salts, when present at concentrations of 0.3% or less
U239	1330-20-7	Xylene (I)
U200	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester, (3beta,16beta,17alpha,18beta,20alpha)-
U249	1314-84-7	Zinc phosphide Zn ₃ P ₂ , when present at concentrations of 10% or less

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U001	75-07-0	Acetaldehyde (I)
U001	75-07-0	Ethanal (I)
U002	67-64-1	Acetone (I)
U002	67-64-1	2-Propanone (I)
U003	75-05-8	Acetonitrile (I,T)
U004	98-86-2	Acetophenone
U004	98-86-2	Ethanone, 1-phenyl-
U005	53-96-3	Acetamide, -9H-fluorene-2-yl-
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)
U007	79-06-1	Acrylamide
U007	79-06-1	2-Propenamide
U008	79-10-7	Acrylic acid (I)
U008	79-10-7	2-Propenoic acid (I)
U009	107-13-1	Acrylonitrile
U009	107-13-1	2-Propenenitrile
U010	50-07-7	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[aminocarbonyl]oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-, [1aS-(1alpha,8beta,8alpha,8beta)]-
U010	50-07-7	Mitomycin C
U011	61-82-5	Amitrole
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U012	62-53-3	Aniline (I,T)
U012	62-53-3	Benzenamine (I,T)
U014	492-80-8	Auramine
U014	492-80-8	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl]-
U015	115-02-6	Azaserine
U015	115-02-6	L-Serine, diazoacetate(ester)
U016	225-51-4	Benz[c]acridine
U017	98-87-3	Benzal chloride
U017	98-87-3	Benzene, (dichloromethyl)-
U018	56-55-3	Benz[a]anthracene

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U019	71-43-2	Benzene (I,T)
U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U020	98-09-9	Benzenesulfonyl chloride(C,R)
U021	92-87-5	Benzidine
U021	92-87-5	[1,1'-Biphenyl]-4,4'-diamine
U022	50-32-8	Benzo[a]pyrene
U023	98-07-7	Benzene, (trichloromethyl)-
U023	98-07-7	Benzotrichloride (C,R,T)
U024	111-91-1	Dichloromethoxy ethane
U024	111-91-1	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-
U025	111-44-4	Dichloroethyl ether
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
U026	494-03-1	Chlornaphazin
U026	494-03-1	Naphthalenamine, N,N'-bis(2-chloroethyl)-
U027	108-60-1	Dichloroisopropyl ether
U027	108-60-1	Propane, 2,2'-oxybis[2-chloro-
U028	117-81-7	1,2-Benzenedicarboxylic acid,bis(2-ethylhexyl) ester
U028	117-81-7	Diethylhexyl phthalate
U029	74-83-9	Methane, bromo-
U029	74-83-9	Methyl bromide
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U030	101-55-3	4-Bromophenyl phenyl ether
U031	71-36-3	1-Butanol (I)
U031	71-36-3	n-Butyl alcohol (I)
U032	13765-19-0	Calcium chromate
U032	13765-19-0	Chromic acid H ₂ CrO ₄ , calcium salt
U033	353-50-4	Carbonic difluoride
U033	353-50-4	Carbon oxyfluoride (R,T)
U034	75-87-6	Acetaldehyde, trichloro-
U034	75-87-6	Chloral
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U035	305-03-3	Chlorambucil
U036	57-74-9	Chlordane, alpha & gamma isomers
U036	57-74-9	4,7-Methano-1H-indene,1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U037	108-90-7	Benzene, chloro-
U037	108-90-7	Chlorobenzene
U038	510-15-6	Benzenoacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester
U038	510-15-6	Chlorobenzilate
U039	59-50-7	p-Chloro-m-cresol
U039	59-50-7	Phenol, 4-chloro-3-methyl-
U041	106-89-8	Epichlorohydrin
U041	106-89-8	Oxirane, (chloromethyl)-
U042	110-75-8	2-Chloroethyl vinyl ether
U042	110-75-8	Ethene, (2-chloroethoxy)-
U043	75-01-4	Ethene, chloro-

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U043	75-01-4	Vinyl chloride
U044	67-66-3	Chloroform
U044	67-66-3	Methane, trichloro-
U045	74-87-3	Methane, chloro- (I,T)
U045	74-87-3	Methyl chloride (I,T)
U046	107-30-2	Chloromethyl methyl ether
U046	107-30-2	Methane, chloromethoxy-
U047	91-58-7	beta-Chloronaphthalene
U047	91-58-7	Naphthalene, 2-chloro-
U048	95-57-8	o-Chlorophenol
U048	95-57-8	Phenol, 2-chloro-
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-, hydrochloride
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
U050	218-01-9	Chrysene
U051	Creosote
U052	1319-77-3	Cresol (Cresylic acid)
U052	1319-77-3	Phenol, methyl-
U053	4170-30-3	2-Butenal
U053	4170-30-3	Crotonaldehyde
U055	98-82-8	Benzene, (1-methylethyl)-(I)
U055	98-82-8	Cumene (I)
U056	110-82-7	Benzene, hexahydro-(I)
U056	110-82-7	Cyclohexane (I)
U057	108-94-1	Cyclohexanone (I)
U058	50-18-0	Cyclophosphamide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U059	20830-81-3	Daunomycin
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl]oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U060	72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-
U060	72-54-8	DDD
U061	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U061	50-29-3	DDT
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Benzo[rs]t]pentaphene
U064	189-55-9	Dibenzo[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U066	96-12-8	Propane, 1,2-dibromo-3-chloro-
U067	106-93-4	Ethane, 1,2-dibromo-
U067	106-93-4	Ethylene dibromide
U068	74-95-3	Methane, dibromo-
U068	74-95-3	Methylene bromide

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
U069	84-74-2	Dibutyl phthalate
U070	95-50-1	Benzene, 1,2-dichloro-
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	Benzene, 1,3-dichloro-
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	Benzene, 1,4-dichloro-
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-
U073	91-94-1	3,3'-Dichlorobenzidine
U074	764-41-0	2-Butene, 1,4-dichloro-(I,T)
U074	764-41-0	1,4-Dichloro-2-butene (I,T)
U075	75-71-8	Dichlorodifluoromethane
U075	75-71-8	Methane, dichlorodifluoro-
U076	75-34-3	Ethane, 1,1-dichloro-
U076	75-34-3	Ethylidene dichloride
U077	107-06-2	Ethane, 1,2-dichloro-
U077	107-06-2	Ethylene dichloride
U078	75-35-4	1,1-Dichloroethylene
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	1,2-Dichloroethylene
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U080	75-09-2	Methane, dichloro-
U080	75-09-2	Methylene chloride
U081	120-83-2	2,4-Dichlorophenol
U081	120-83-2	Phenol, 2,4-dichloro-
U082	87-65-0	2,6-Dichlorophenol
U082	87-65-0	Phenol, 2,6-dichloro-
U083	78-87-5	Propane, 1,2-dichloro-
U083	78-87-5	Propylene dichloride
U084	542-75-6	1,3-Dichloropropene
U084	542-75-6	1-Propene, 1,3-dichloro-
U085	1464-53-5	2,2'-Bioxirane
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U086	1615-80-1	N,N'-Diethylhydrazine
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U087	3288-58-2	O,O-Diethyl S-methyldithiophosphate
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl S-methyl ester
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbesterol
U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U090	94-58-6	Dihydrosafrole
U091	119-90-4	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (I)

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U092	124-40-3	Methanamine, -methyl-(I)
U093	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U093	60-11-7	p-Dimethylaminoazobenzene
U094	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl-(R)
U097	79-44-7	Carbamic chloride, dimethyl-
U097	79-44-7	Dimethylcarbamoyl chloride
U098	57-14-7	1,1-Dimethylhydrazine
U098	57-14-7	Hydrazine, 1,1-dimethyl-
U099	540-73-8	1,2-Dimethylhydrazine
U099	540-73-8	Hydrazine, 1,2-dimethyl-
U101	105-67-9	2,4-Dimethylphenol
U101	105-67-9	Phenol, 2,4-dimethyl-
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U103	77-78-1	Sulfuric acid, dimethyl ester
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Diethyleneoxide
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U109	122-66-7	Hydrazine, 1,2-diphenyl-
U110	142-84-7	Dipropylamine (I)
U110	142-84-7	1-Propanamine, N-propyl-(I)
U111	621-64-7	Di-n-propylnitrosamine
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-
U112	141-78-6	Acetic acid ethyl ester (I)
U112	141-78-6	Ethyl acetate (I)
U113	140-88-5	Ethyl acrylate (I)
U113	140-88-5	2-Propenoic acid, ethyl ester (I)
U114	¹ 111-54-6	Carbamodithioic acid, 1,2-ethanediybis-, salts & esters
U114	¹ 111-54-6	Ethylenebisdithiocarbamic acid, salts & esters
U115	75-21-8	Ethylene oxide (I,T)
U115	75-21-8	Oxirane (I,T)
U116	96-45-7	Ethylenethiourea

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U116	96-45-7	2-Imidazolidinethione
U117	60-29-7	Ethane, 1,1'-oxybis-(I)
U117	60-29-7	Ethyl ether (I)
U118	97-63-2	Ethyl methacrylate
U118	97-63-2	2-Propenoic acid, 2-methyl-,ethyl ester
U119	62-50-0	Ethyl methanesulfonate
U119	62-50-0	Methanesulfonic acid, ethyl ester
U120	206-44-0	Fluoranthene
U121	75-69-4	Methane, trichlorofluoro-
U121	75-69-4	Trichloromonofluoromethane
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (I)
U124	110-00-9	Furfuran (I)
U125	98-01-1	2-Furancarboxaldehyde (I)
U125	98-01-1	Furfural (I)
U126	765-34-4	Glycidylaldehyde
U126	765-34-4	Oxiranecarboxyaldehyde
U127	118-74-1	Benzene, hexachloro-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U128	87-68-3	Hexachlorobutadiene
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-
U129	58-89-9	Lindane
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Ethane, hexachloro-
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U133	302-01-2	Hydrazine (R,T)
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U135	7783-06-4	Hydrogen sulfide H2S
U136	75-60-5	Arsinic acid, dimethyl-
U136	75-60-5	Cacodylic acid
U137	193-39-5	Indeno[1,2,3-cd]pyrene
U138	74-88-4	Methane, iodo-
U138	74-88-4	Methyl iodide
U140	78-83-1	Isobutyl alcohol (I,T)
U140	78-83-1	1-Propanol, 2-methyl- (I,T)
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U141	120-58-1	Isosafrole
U142	143-50-0	Kepone

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-[[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*),7aalpha]]-
U143	303-34-4	Lasiocarpine
U144	301-04-2	Acetic acid, lead(2+) salt
U144	301-04-2	Lead acetate
U145	7446-27-7	Lead phosphate
U145	7446-27-7	Phosphoric acid, lead(2+) salt (2:3)
U146	1335-32-6	Lead, bis(acetato-O)tetrahydroxytri-
U146	1335-32-6	Lead subacetate
U147	108-31-6	2,5-Furandione
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
U149	109-77-3	Malononitrile
U149	109-77-3	Propanedinitrile
U150	148-82-3	Melphalan
U150	148-82-3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (I,T)
U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U153	74-93-1	Methanethiol (I,T)
U153	74-93-1	Thiomethanol (I,T)
U154	67-56-1	Methanol (I)
U154	67-56-1	Methyl alcohol (I)
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U155	91-80-5	Methapyrilene
U156	79-22-1	Carbonochloridic acid, methylester (I,T)
U156	79-22-1	Methyl chlorocarbonate (I,T)
U157	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	Benzenamine, 4,4'-methylenebis[2-chloro-
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U159	78-93-3	2-Butanone (I,T)
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U160	1338-23-4	2-Butanone, peroxide (R,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U161	108-10-1	Methyl isobutyl ketone (I)
U161	108-10-1	4-Methyl-2-pentanone (I)
U161	108-10-1	Pentanol, 4-methyl-
U162	80-62-6	Methyl methacrylate (I,T)
U162	80-62-6	2-Propenoic acid, 2-methyl-,methyl ester (I,T)

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U163	70-25-7	Guanidine, -methyl-N'-nitro-N-nitroso-
U163	70-25-7	MNNG
U164	56-04-2	Methylthiouracil
U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U165	91-20-3	Naphthalene
U166	130-15-4	1,4-Naphthalenedione
U166	130-15-4	1,4-Naphthoquinone
U167	134-32-7	1-Naphthalenamine
U167	134-32-7	alpha-Naphthylamine
U168	91-59-8	2-Naphthalenamine
U168	91-59-8	beta-Naphthylamine
U169	98-95-3	Benzene, nitro-
U169	98-95-3	Nitrobenzene (I,T)
U170	100-02-7	p-Nitrophenol
U170	100-02-7	Phenol, 4-nitro-
U171	79-46-9	2-Nitropropane (I,T)
U171	79-46-9	Propane, 2-nitro- (I,T)
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	Ethanol, 2,2'- (nitrosoimino)bis-
U173	1116-54-7	N-Nitrosodiethanolamine
U174	55-18-5	Ethanamine, -ethyl-N-nitroso-
U174	55-18-5	N-Nitrosodiethylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U176	759-73-9	Urea, N-ethyl-N-nitroso-
U177	684-93-5	N-Nitroso-N-methylurea
U177	684-93-5	Urea, N-methyl-N-nitroso-
U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U179	100-75-4	Piperidine, 1-nitroso-
U180	930-55-2	N-Nitrosopyrrolidine
U180	930-55-2	Pyrrolidine, 1-nitroso-
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-
U181	99-55-8	5-Nitro-o-toluidine
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-
U182	123-63-7	Paraldehyde
U183	608-93-5	Benzene, pentachloro-
U183	608-93-5	Pentachlorobenzene
U184	76-01-7	Ethane, pentachloro-
U184	76-01-7	Pentachloroethane
U185	82-68-8	Benzene, pentachloronitro-
U185	82-68-8	Pentachloronitrobenzene (PCNB)
U186	504-60-9	1-Methylbutadiene (I)
U186	504-60-9	1,3-Pentadiene (I)
U187	62-44-2	Acetamide, -(4-ethoxyphenyl)-
U187	62-44-2	Phenacetin
U188	108-95-2	Phenol

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U189	1314-80-3	Phosphorus sulfide (R)
U189	1314-80-3	Sulfur phosphide (R)
U190	85-44-9	1,3-Isobenzofurandione
U190	85-44-9	Phthalic anhydride
U191	109-06-8	2-Picoline
U191	109-06-8	Pyridine, 2-methyl-
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-
U192	23950-58-5	Pronamide
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U193	1120-71-4	1,3-Propane sultone
U194	107-10-8	1-Propanamine (I,T)
U194	107-10-8	n-Propylamine (I,T)
U196	110-86-1	Pyridine
U197	106-51-4	p-Benzoquinone
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione
U200	50-55-5	Reserpine
U200	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methylester, (3beta,16beta,17alpha,18beta,20alpha)-
U201	108-46-3	1,3-Benzenediol
U201	108-46-3	Resorcinol
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U203	94-59-7	Safrole
U204	7783-00-8	Selenious acid
U204	7783-00-8	Selenium dioxide
U205	7488-56-4	Selenium sulfide
U205	7488-56-4	Selenium sulfide SeS2 (R,T)
U206	18883-66-4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U206	18883-66-4	D-Glucose, 2-deoxy-2-[[[(methylnitrosoamino)-carbonyl]amino]-
U206	18883-66-4	Streptozotocin
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U208	630-20-6	1,1,1,2-Tetrachloroethane
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U209	79-34-5	1,1,2,2-Tetrachloroethane
U210	127-18-4	Ethene, tetrachloro-
U210	127-18-4	Tetrachloroethylene
U211	56-23-5	Carbon tetrachloride
U211	56-23-5	Methane, tetrachloro-
U213	109-99-9	Furan, tetrahydro-(I)
U213	109-99-9	Tetrahydrofuran (I)
U214	563-68-8	Acetic acid, thallium(1+)salt
U214	563-68-8	Thallium(I) acetate
U215	6533-73-9	Carbonic acid, dithallium(1+) salt
U215	6533-73-9	Thallium(I) carbonate

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U216	7791-12-0	Thallium(I) chloride
U216	7791-12-0	Thallium chloride TlCl
U217	10102-45-1	Nitric acid, thallium(1+) salt
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Ethanethioamide
U218	62-55-5	Thioacetamide
U219	62-56-6	Thiourea
U220	108-88-3	Benzene, methyl-
U220	108-88-3	Toluene
U221	25376-45-8	Benzenediamine, ar-methyl-
U221	25376-45-8	Toluenediamine
U222	636-21-5	Benzenamine, 2-methyl-,hydrochloride
U222	636-21-5	o-Toluidine hydrochloride
U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl-(R,T)
U223	26471-62-5	Toluene diisocyanate (R,T)
U225	75-25-2	Bromoform
U225	75-25-2	Methane, tribromo-
U226	71-55-6	Ethane, 1,1,1-trichloro-
U226	71-55-6	Methyl chloroform
U226	71-55-6	1,1,1-Trichloroethane
U227	79-00-5	Ethane, 1,1,2-trichloro-
U227	79-00-5	1,1,2-Trichloroethane
U228	79-01-6	Ethene, trichloro-
U228	79-01-6	Trichloroethylene
U234	99-35-4	Benzene, 1,3,5-trinitro-
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
U235	126-72-7	1-Propanol, 2,3-dibromo-,phosphate (3:1)
U235	126-72-7	Tris(2,3-dibromopropyl) phosphate
U236	72-57-1	2,7-Naphthalenedisulfonicacid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)bis[5-amino-4-hydroxy]-, tetrasodium salt
U236	72-57-1	Trypan blue
U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-
U237	66-75-1	Uracil mustard
U238	51-79-6	Carbamic acid, ethyl ester
U238	51-79-6	Ethyl carbamate (urethane)
U239	1330-20-7	Benzene, dimethyl- (I)
U239	1330-20-7	Xylene (I)
U240	194-75-7	Acetic acid, (2,4-dichlorophenoxy)-, salts & esters
U240	194-75-7	2,4-D, salts & esters
U243	1888-71-7	Hexachloropropene
U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
U244	137-26-8	Thioperoxydicarbonic diamide [(H2N)C(S)]2 S2, tetramethyl-
U244	137-26-8	Thiram
U246	506-68-3	Cyanogen bromide (CN)Br
U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U247	72-43-5	Methoxychlor
U248	¹ 81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, & salts, when present at concentrations of 0.3% or less
U248	¹ 81-81-2	Warfarin, & salts, when present at concentrations of 0.3% or less
U249	1314-84-7	Zinc phosphide Zn ₃ P ₂ , when present at concentrations of 10% or less
U271	17804-35-2	Benomyl
U271	17804-35-2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methylester
U278	22781-23-3	Bendiocarb
U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate
U279	63-25-2	Carbaryl
U279	63-25-2	1-Naphthalenol, methylcarbamate
U280	101-27-9	Barban
U280	101-27-9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester
U328	95-53-4	Benzenamine, 2-methyl-
U328	95-53-4	o-Toluidine
U353	106-49-0	Benzenamine, 4-methyl-
U353	106-49-0	p-Toluidine
U359	110-80-5	Ethanol, 2-ethoxy-
U359	110-80-5	Ethylene glycol monoethylether
U364	22961-82-6	Bendiocarb phenol
U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-,
U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U367	1563-38-8	Carbofuran phenol
U372	10605-21-7	Carbamic acid, 1H-benzimidazol-2-yl, methylester
U372	10605-21-7	Carbendazim
U373	122-42-9	Carbamic acid, phenyl-, 1-methylethyl ester
U373	122-42-9	Propham
U387	52888-80-9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U387	52888-80-9	Prosulfocarb
U389	2303-17-5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U389	2303-17-5	Triallate
U394	30558-43-1	A2213
U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester
U395	5952-26-1	Diethylene glycol, dicarbamate
U395	5952-26-1	Ethanol, 2,2'-oxybis-,dicarbamate
U404	121-44-8	Ethanamine, N,N-diethyl-
U404	121-44-8	Triethylamine
U409	23564-05-8	Carbamic acid, [1,2-phenylenebis(imino-carbonothioyl)]bis-,dimethyl ester
U409	23564-05-8	Thiophanate-methyl

Numerical List

Dangerous Waste No.	Chemical Abstracts No.	Substance
U410	59669-26-0	Ethanimidothioic acid, N,N'-[thio-bis[(methylimino)carbonyloxy]]bis-, dimethyl ester
U410	59669-26-0	Thiodicarb
U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U411	114-26-1	Propoxur
See F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
See F027	87-86-5	Pentachlorophenol
See F027	87-86-5	Phenol, pentachloro-
See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro-
See F027	95-95-4	Phenol, 2,4,5-trichloro-
See F027	88-06-2	Phenol, 2,4,6-trichloro-
See F027	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
See F027	93-72-1	Silvex (2,4,5-TP)
See F027	93-76-5	2,4,5-T
See F027	58-90-2	2,3,4,6-Tetrachlorophenol
See F027	95-95-4	2,4,5-Trichlorophenol
See F027	88-06-2	2,4,6-Trichlorophenol

FOOTNOTE: ¹CAS Number given for parent compound only.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

WSR 20-20-050

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed October 1, 2020, 6:28 a.m., effective November 1, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making order amends chapter 16-462 WAC, Grape planting stock—Registration and certification by:

1. Clarifying the circumstances under which Generation 2 mother plants which are more than two years old, can continue to be used to propagate Generation 3 grapevines;
2. Requiring retesting of soil after fumigation to control the presence of nematodes of the genus *Xiphinema*, to prove efficacy of the treatment;
3. Decreasing the number of required inspections of certified grape planting stock (Generation 4) from three times per year to only twice per year;
4. Requiring virus sampling and testing for all registered (Generation 2/Generation 3) grapevines on a five-year rotation;
5. Removing the requirement that program participants have to use paper certification tags provided by the department;
6. Removing the requirement that certified grape planting stock (Generation 4) adhere to certain grades and standards specified in WAC 16-462-055 when offered for sale; and

7. Moving the annual application due date for registration and certification from January 1 to 10.

Citation of Rules Affected by this Order: New WAC 16-462-027; repealing WAC 16-462-055; and amending WAC 16-462-010, 16-462-015, 16-462-018, 16-462-020, 16-462-021, 16-462-022, 16-462-025, 16-462-030, 16-462-035, and 16-462-050.

Statutory Authority for Adoption: RCW 15.14.015 and 15.13.260.

Adopted under notice filed as WSR 20-17-144 on August 19, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 1, Amended 10, Repealed 1.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 10, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2020.

Derek I. Sandison
Director

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-010 Grape planting stock program—General. (1) Participation in the grape planting stock program is voluntary.

(2) Grapevines or parts of grape plants may be designated as registered stock (G2/G3), or certified grape planting stock (G4), if they and the stock from which they were produced have been inspected (~~(-indexed)~~) and tested in accordance with procedures and requirements outlined in this chapter and found to be in compliance with all applicable standards and requirements established in this chapter.

~~((2))~~ (3) The issuance of a state of Washington plant tag, stamp, or other document under this chapter means only that the tagged, stamped, or otherwise documented planting stock has been subjected to standards and procedures described in this chapter and determined to be in compliance with its standards and requirements. The department disclaims all expressed or implied warranties, including without limitation, implied warranties of merchantability and fitness for particular purpose, regarding all plants, plant parts, and plant materials under this chapter.

~~((3))~~ (4) The department is not responsible for disease, genetic disorders, off-type, failure of performance, mislabeling, or otherwise, in connection with this chapter. No grower, nursery dealer, government official, or other person is authorized to give any expressed or implied warranty, or to accept

financial responsibility on behalf of the department regarding this chapter.

~~((4) Participation in the grape planting stock certification program is voluntary.)~~

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-015 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

"Block" means a contiguous grouping of *Vitis* plants separated from other groupings by a buffer zone. A block may contain one or multiple lots.

"Buffer zone" is an area surrounding or adjacent to an area officially delimited for phytosanitary purposes in order to minimize the probability of spread of targeted pests or diseases, into or out of the delimited area and subject to phytosanitary or other control measures, if appropriate.

"Certified grape planting stock" means vines, rooted cuttings, tissue cultures, cuttings or grafted plants taken or propagated directly from G1 foundation vines or G2/G3 registered vines in compliance with the provisions of this chapter.

"Containerized plant" means any live plant grown in a container or pot-in-pot where the plant is healthy, vigorous, well-rooted, and established in soil-less media in the container in which it is growing.

"Clean cultivation" means the site is actively managed for weed control or is planted with a cover crop approved by the department.

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

"Director" means the director of the department of agriculture or the director's designee.

"Foundation block" means a planting of grapevines established, operated, and maintained by the Clean Plant Center Northwest at Washington State University, or other sources approved in writing by the director, that are ~~(indexed)~~ tested and found free from targeted pathogens and viruses designated in this chapter and that are not off-type.

"Generation 1 (G1)" means original mother ~~((plants indexed for the viruses of concern))~~ vines identified as such by the Clean Plant Center Northwest at Washington State University or an equivalent facility approved by the department. ~~((The Clean Plant Center Northwest web site is: http://healthyplants.wsu.edu/grape-program-at-epcnw/-))~~

"Generation 2 (G2)" means grapevines propagated from G1 mother ~~((plants))~~ vines and grown under conditions to prevent infection, in accordance with the requirements of this chapter.

"Generation 3 (G3)" means grapevines propagated from G1 or G2 mother ~~((plants and grown))~~ vines, for increase of propagative material, and grown under conditions that prevent infection, in accordance with the requirements of this chapter.

"Generation 4 (G4)" means grapevines propagated from G1, G2, or G3 mother ~~((plants))~~ vines and grown in accordance with this chapter. This is material most often ((grown))

distributed for sale to commercial vineyards and retail consumers.

("Index" means testing for virus infection by making a graft with tissue from the plant being tested to an indicator plant, or by any other testing method approved by the department.

"Indicator plant" means any herbaceous or woody plant used to index or determine virus infection.) "Grapevine" means commercially grown species in the genus *Vitis*.

"Lot" means a contiguous group of a selection within a block, derived from one or more G1 source grapevines obtained from a single clean plant source approved by the department.

"Mother vine" means a grapevine used as a source for propagation material.

"National Clean Plant Network (NCPN)" means the national network of clean plant centers established in 2008 and supported by the United States Department of Agriculture. ((The NCPN web site is: <http://nationalcleanplantnetwork.org/>))

"Off-type" means appearing under visual examination to be different from the variety listed on the application for registration and certification, or exhibiting symptoms of a genetic or nontransmissible disorder.

"Registered block" means a planting of registered (G2/G3) grapevines maintained by a nursery and used as a source of propagation material for certified (G4) grapevines.

"Registered vine" means any G2 or G3 grapevine approved by the director, identified to a single (G1) grapevine source, and registered with the Washington state department of agriculture, in compliance with provisions of this chapter.

"Screenhouse" is a structure that includes screening designed to prevent the introduction of insect vectors.

"Tissue culture" means aseptically removing a vegetative shoot tip from growth arising from a dormant cutting or from green growth (i.e., softwood) from a plant during the growing season and aseptically transferring this shoot tip to a suitable vessel containing an appropriate culture medium.

"Virus-like" means a graft-transmissible disorder with symptoms resembling a characterized virus disease(;) including, but not limited to, disorders caused by viroids and phytoplasmas.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-018 ((Certification levels)) Foundation sources eligible for registration and certification. All propagative material ((produced under this)) eligible for entry into the WSDA grape planting stock registration and certification program must be derived from a Generation 1 ((stock and grown under conditions that mitigate the risk of reinfection:)) foundation block held at a National Clean Plant Network (NCPN) supported center and continuously grown under conditions that mitigate the risk of infection. Eligible Generation 1 ((level material is produced at)) foundation sources include the Clean Plant Center-Northwest (CPC-NW) at Washington State University(;-or) and Foundation Plant Services (FPS) at University of California at Davis. The

department may approve other grapevine foundation facilities ((within the National Clean Plant Network (NCPN) and approved by the department)) as an eligible G1 foundation source. Such approval shall be in writing. The accession numbers relating to the single (G1) grapevine source ((at CPC-NW or other approved facilities)) must be retained for tracking purposes throughout the life of its certified progeny and provided to the department upon request. ((At each stage of propagation, progeny plants drop to a lower certification level:))

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-020 Requirements for participation in the grape planting stock program. (1) The applicant shall be responsible, subject to the approval of the department, for the selection of the location and the proper maintenance of registered blocks (G2/G3) and certified grape planting stock (G4).

(2) The applicant must maintain records identifying the (G1) foundation source of registered ((grapevines)) vines (G2/G3) and certified grape planting stock (G4) and provide these records to the department upon request.

(3) The applicant shall take suitable precautions in cultivation, irrigation, movement and use of equipment, and in other farming practices, to guard against spread of soil-borne pests to planting stock entered in this program. The applicant shall keep all registered blocks (G2/G3) and certified grape planting stock (G4) clean cultivated, except for approved cover crops.

(4) Following notification by the department, the applicant shall remove and destroy immediately any registered grapevine or certified planting stock found to be off-type or affected by a virus or virus-like disease or a quarantine pest.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-021 Requirements for registered blocks (G2/G3). (1) All registered grapevines must be identified by the number assigned to the single grapevine (G1) source in the foundation block from which they were ((taken)) derived.

(2) With the exception of practices allowed in subsections (3), (4), and (5) of this section, registered ((plants)) (G2) vines must be propagated directly from cuttings or tissue cultures taken from a G1 grapevine.

(3) Plants propagated from a G1 grapevine and grown entirely under laboratory or ((greenhouse)) screenhouse conditions may serve as a source of softwood cuttings ((or shoot tip culture)) used to establish a registered block of G2 grapevines or a registered (G2) tissue culture line.

(4) ((G3)) Registered G3 grapevines may be propagated from ((G2)) registered G2 grapevines within the same registered block, for the purpose of increasing the size of the block or for replacement grapevines.

(5) Participating nurseries must obtain written permission from the department to propagate G3 grapevines from G2 grapevines, for the purpose of establishing or increasing

other registered blocks within the nursery ((if)). All of the following conditions ((are)) must be complied with:

(a) The mother vines were registered G2 ((grapevines)) vines;

(b) Propagation occurs in a laboratory or insect proof greenhouse by tissue culture or softwood cuttings; and

(c) The mother vine ((is no more than two years old, or the department)) has been tested by the department within the last two growing cycles and has been determined ((the mother vine is)) to be free of regulated viruses and pests in WAC 16-462-050.

(6) Prior to planting a registered block (G2/G3), the growing area and its contiguous borders of not less than ten feet must be tested by the department for the presence of ((the)) nematodes of the genus ((Xiphinema)) Xiphinema, which can be virus vectors. If a ((Xiphinema)) Xiphinema nematode is detected, the growing area must be fumigated in accordance with rates and practices recommended by Washington State University and then retested to verify efficacy of the fumigation. This treatment must be carried out under the supervision of the department.

(7) Registered blocks must be located at least one hundred feet from noncertified or nonregistered grapevines. This does not apply to registered ((stock)) vines grown in a fully enclosed greenhouse, screenhouse or laboratory, ((providing the)) as long as that facility does not contain noncertified grapevines.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-022 Requirements for certified grape planting stock (G4). (1) Certified grape planting stock, including all components of budded or grafted plants, must be propagated from cuttings taken from G1, G2, or G3 grapevines.

(2) Cuttings from registered blocks must be sorted and kept separate by variety and selection number or clone.

(3) Treatment to control nematodes and other soil-borne pests may be required at any time by the department.

(4) ((All certified planting stock other than greenhouse grown plants must comply with the grades and standards for Washington certified grape planting stock as listed in WAC 16-462-055.

((5)) Certified grape planting stock must be separated from noncertified grapevines by one of the following distances. This requirement does not apply to certified grape planting stock grown in a fully enclosed greenhouse, screenhouse or laboratory, ((providing the)) as long as that facility does not contain noncertified grapevines.

(a) Ten feet for any land treated to control nematodes; or

(b) Twenty feet for land not specifically treated to control nematodes.

((6)) (5) Certification is based solely on compliance with the requirements prescribed in WAC 16-462-050 and other requirements of this chapter.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-025 ((Foundation)) Registered((5)) grapevines (G2/G3) and certified grape planting stock (G4)—Inspections. (1) Inspections ((and indexing)) of registered grapevines and certified grape planting stock will be performed by the department at times determined to be suitable for the detection of virus and virus-like disease symptoms. ((The Clean Plant Center Northwest will inspect and index the foundation block (G1).

(2) The department will index registered grapevines by methods consistent with those utilized by the Clean Plant Center Northwest.

((3))

(2) The department will conduct at least two inspections of registered ((grapevines)) (G2/G3) vines during each growing season.

((4)) (3) The department will inspect certified grape planting stock (G4) at least ((three)) two times per year((5 twice during the growing season and once during or after harvest)).

((5)) (4) The department will refuse or withdraw registration or certification for any planting stock that is infested or infected with any ((regulated)) pest regulated under this chapter, or any quarantine pest listed in WAC 16-483-001.

NEW SECTION

WAC 16-462-027 Virus sampling and testing requirements for registered (G2/G3) grapevines. (1) In addition to required visual inspections, all registered (G2/G3) grapevines may be tested by the department for regionally occurring viruses regulated under this chapter, on a five-year rotation. Regionally occurring viruses are those that can be vectored within the registered block. Pests to be tested for will be recommended annually by consensus of an agency recognized industry stakeholder group with representation for the Pacific Northwest region.

(2) Testing will be prioritized as follows:

(a) All vines showing symptoms upon visual inspection by the department will be tested immediately.

(b) Vines of varieties with the highest distribution by the nursery.

(c) Vines of varieties considered unlikely to show visual symptoms of virus shall be sampled and tested at twenty percent per year, or as directed by the department.

(d) Other vines not described above.

(3) The department and entities authorized by the department will test registered G2 grapevines by methods consistent with those utilized by the Clean Plant Center Northwest.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-030 ((Certified grape planting stock—))Application and fees. (1) The applicant shall ((furnish)) submit an application form developed by the department, furnishing all information requested ((on the application form and shall give)), giving consent to the department to inspect and take samples from any planting stock enrolled in the pro-

gram as registered grapevines or certified (~~((grapevines for inspection or indexing))~~) grape planting stock.

(2) Such application for registration and certification shall be filed with the department by January ~~((4))~~ 10 of each year accompanied by a one hundred seventy-five dollar application fee.

(3) ~~((Inspection, phytosanitary certification, indexing and testing fees are due upon completion of services.~~

(4) ~~Fees for inspection and phytosanitary certification shall be assessed at the appropriate rate established in chapter 16-401 WAC. Fees for indexing shall be assessed at the appropriate rate established in chapter 16-470 WAC. Mileage for inspections and other on-site services shall be charged at a rate established by the state office of financial management.)~~ Fees for inspection and sampling shall be charged at the appropriate rate established in WAC 16-401-027. Mileage for inspections and other on-site services shall be charged at a rate established by the state office of financial management.

(4) Laboratory testing fees for nematode presence shall be charged at the appropriate rate established in WAC 16-470-912.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-035 Certified grape planting stock (G4)—Tagging and identity. (1) Certification (~~((tags issued))~~) language approved by the department must be (~~((securely attached))~~) affixed by the grower to each bundle, box or other unit of certified grape planting stock (G4) by means of tag, stamp, sticker, or preprinted language prior to shipping. If all vines in a single shipment are considered certified, the certification language may alternatively be affixed to or printed on the invoice or bill of lading.

(2) Any person selling Washington certified grape planting stock (G4) is responsible for the identity of such planting stock. Persons (~~((issued tags authorized by this chapter))~~) authorized to use certification language must account by variety for the certified grape planting stock produced and sold. They must keep and allow the department to inspect and copy records necessary to verify this.

AMENDATORY SECTION (Amending WSR 14-21-035, filed 10/7/14, effective 11/7/14)

WAC 16-462-050 Requirements—Targeted pests and pathogens. (~~((Certified plants))~~) All grapevines produced under this program must be free of Grapevine fanleaf virus, Grapevine leafroll-associated viruses, Grapevine virus A, Grapevine virus B, (~~((Grapevine rupestris stem pitting virus,))~~) Arabis mosaic virus, Tomato ringspot virus, Grapevine red blotch virus, Grapevine vein clearing virus, *Xylella fastidiosa*, *Daktulosphaera vitifoliae*, (~~((and))~~) *Planococcus ficus*(~~((Certified plants))~~) and all other quarantine pests listed in WAC 16-483-001. Grapevines produced under this program must also be apparently free of nematode root knots, crown gall, and other visible signs of diseases or serious pest injuries.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-462-055 Certified grape planting stock—Grades and standards.

WSR 20-20-052

PERMANENT RULES

BATES TECHNICAL COLLEGE

[Filed October 1, 2020, 9:34 a.m., effective November 1, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: New chapter 495A-105 WAC to add college seal to Bates Technical College's Title 495A WAC series.

Citation of Rules Affected by this Order: New chapter 495A-105 WAC.

Statutory Authority for Adoption: RCW 28B.50.100 and 28B.50.130.

Adopted under notice filed as WSR 20-14-091 on June 30, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 1, 2020.

Dr. Jean Hernandez
Special Assistant to the President

Chapter 495A-105 WAC

BATES TECHNICAL COLLEGE SEAL

NEW SECTION

WAC 495A-105-010 Design. The seal of Bates Technical College, District 28, shall be the following design:

**NEW SECTION**

WAC 495A-105-020 Use. The seal shall be used only in connection with the transaction of official business at Bates Technical College, District 28, or for promotional purposes. The college president or designee will preapprove the manner in which the seal may be used.

**WSR 20-20-055
PERMANENT RULES
BATES TECHNICAL COLLEGE**

[Filed October 1, 2020, 10:29 a.m., effective November 1, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending chapter 495A-280 WAC to align with current policies and practices for Bates Technical College.

Citation of Rules Affected by this Order: Amending chapter 495A-280 WAC.

Statutory Authority for Adoption: Chapters 34.05, 42.56 RCW; RCW 28B.50.140.

Adopted under notice filed as WSR 20-14-096 on June 30, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 10.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 1, 2020.

Dr. Jean Hernandez
Special Assistant to the President

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-280-010 General policy. Bates Technical College, District 28, implements the policy contained in this chapter in compliance with the Family Educational Rights and Privacy Act (FERPA)(20 U.S.C. §1232g) and its implementing regulation (34 C.F.R. §99). ~~((Briefly,))~~ Bates Technical College, District 28, is required to provide students with access to their own education records, to permit students to challenge their records on the grounds that they are inaccurate, misleading, or otherwise in violation of the student's privacy or other right, to obtain written consent before releasing certain information and to notify students of these rights.

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-280-015 Definitions. For the purposes of this policy, the following definitions of terms apply:

(1) "Student" ~~((means any individual who is or has been in attendance at Bates Technical College and for whom the college maintains education records.~~

~~((2)))~~ is someone who is currently or previously enrolled in a course offering at Bates Technical College, District 28. A student includes all persons taking courses at or through the college whether on a full-time or part-time basis and whether such courses are credit courses, noncredit courses, online courses, continuing education, or contract courses.

(2) "Family Educational Rights and Privacy Act" and "FERPA" mean the law and regulations known by those names (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(3) "Education records" are defined as those records, files and documents (in handwriting, print, tapes, film, microfiche or other medium) maintained by Bates Technical College which contain information directly related to the individual student. Education records include only the following:

(a) Records pertaining to admission, advisement, registration, grading, and progress toward a degree or certificate that are maintained by the registrar.

(b) Testing information used for advisement purposes by the counseling center.

(c) Information concerning payment of fees as maintained by the registrar.

(d) Financial aid information as collected by the financial aid office.

(e) Information regarding students participating in student government or student government-sponsored activities that is maintained by the student programs office.

~~((3)))~~ (4) "Directory information" means:
(a) ~~The student's name((, address, telephone number, date and place of birth,))~~;

(b) ~~Major field of study((, eligibility for and participation in officially recognized activities, organizations, and sports,~~

weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student));

(c) Enrollment status;

(d) Dates of attendance;

(e) Participation in recognized activities;

(f) Credentials (i.e., degrees, certificates, etc.); and

(g) Honors.

Directory information may be disclosed at the discretion of the college and without the consent of the student unless ~~((he or she))~~ they elect~~((s))~~ to prevent disclosure ~~((as provided for in WAC 495A-280-070))~~ as outlined in college policy.

~~((4))~~ (5) "Written consent" means a written authorization for disclosure of student education records which is:

(a) Signed;

(b) Dated;

(c) Which specifies the records to be disclosed; and

(d) Which specifies to whom disclosure is authorized.

~~((5))~~ (6) "Personally identifiable" means data or information which includes: The name of the student, the student's parent(s), or other family members; a personal identifier such as the student's Social Security number or student number; or a list of personal characteristics which would make the student's identity easily traceable.

(7) "College registrar" is a college administrator designated by the vice president for student services to be responsible for overseeing FERPA unless the vice president of student services assigns a different administrator as the designee.

(8) "RCW" means Revised Code of Washington and can be accessed at <http://apps.leg.wa.gov/rcw/>.

(9) "WAC" means the Washington Administrative Code and can be accessed at <http://app.leg.wa.gov/wac/>.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 495A-280-020	Annual notification of rights.
WAC 495A-280-030	Procedure to inspect education records.
WAC 495A-280-040	Disclosure of education records.
WAC 495A-280-050	Limits on rights to review and inspect and obtain copies of education records.
WAC 495A-280-060	Record of request and disclosures.
WAC 495A-280-070	Disclosure of directory information.
WAC 495A-280-080	Requests for corrections, hearings, adding statements to education records.
WAC 495A-280-090	Fees for copies.
WAC 495A-280-100	Waiver.
WAC 495A-280-110	Type and location of education records.

WSR 20-20-056

PERMANENT RULES

BATES TECHNICAL COLLEGE

[Filed October 1, 2020, 10:39 a.m., effective November 1, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Amending chapter 495A-325 WAC to align with current practices for Bates Technical College.

Citation of Rules Affected by this Order: Amending WAC 495A-325.

Statutory Authority for Adoption: Chapter 34.05 RCW; RCW 28B.50.140.

Adopted under notice filed as WSR 20-14-098 on June 30, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 1, 2020.

Dr. Jean Hernandez
Special Assistant to the President

AMENDATORY SECTION (Amending WSR 92-12-017, filed 5/26/92, effective 6/26/92)

WAC 495A-325-010 Implementation of State Environmental Policy Act. (1) It shall be the policy of Bates Technical College, District 28, that all actions taken by the district shall comply with the provisions of chapter 43.21C RCW (the State Environmental Policy Act), chapters 197-11 and 132-24 WAC.

(2) The president of the district or ~~((his or her))~~ designee shall be responsible for administering and implementing this policy.

WSR 20-20-062

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed October 1, 2020, 2:55 p.m., effective November 1, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The proposed changes will provide clean up and clarification to the existing language to ensure the rules reference and comply with current laws in the state of Washington.

Citation of Rules Affected by this Order: Amending chapter 212-12 WAC.

Statutory Authority for Adoption: RCW 18.20.130, 18.46.110, 18.51.140, 43.43.939, 70.41.080, 70.97.210, 71.12.485, 74.15.050; chapter 43.44 RCW.

Adopted under notice filed as WSR 20-15-144 on July 21, 2020.

Changes Other than Editing from Proposed to Adopted Version: WAC 212-12-005 (2)(e), removed the added language of "and/or department of health," 212-12-044 (2), removed the word "always," it states that report has to be available, 212-12-010 (6), added "care centers" after Hospice, and 212-12-015, added "care centers" after Hospice.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 11, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 11, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 1, 2020.

John R. Batiste
Chief

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

WAC 212-12-001 Statement of authority. The state director of fire protection is authorized to administer and enforce the provisions of this chapter and in accordance with RCW 43.44.010.

AMENDATORY SECTION (Amending WSR 13-18-066, filed 9/3/13, effective 10/4/13)

WAC 212-12-005 Definitions. Unless otherwise provided in this section, definitions in the Washington State Building Code, chapter 19.27 RCW, and 42 C.F.R. Ch. IV § 483.70, National Fire Protection Association, standard 101 "Life Safety Code" (~~(2000 edition, as)~~) current adopted edition by ((~~CMS-~~)Centers for Medicare/Medicaid Services(~~(s)~~)) (~~CMS~~) shall apply to this chapter. The following definitions will also apply to this chapter:

(1) "State director of fire protection" means the director of fire protection within the Washington state patrol, the state fire marshal, or authorized deputy or designee.

(2) "New facility" means any facility that is:

(a) Being occupied or licensed for the first time(~~(s)~~);

(b) Vacated for more than one (~~hundred eighty days~~) year and reoccupied(~~(s)~~);

(c) Closed for more than one (~~hundred eighty days~~) year and reopened(~~(s)~~);

(d) Changes occupancy classification; or

(e) For which the license has expired, will be considered as a new facility and must meet the current codes and standards as adopted. (~~(Except for boarding homes)~~)

Exceptions:

• Existing assisted living facilities which may be vacated for more than one hundred eighty days if approved by the director of fire protection and the department of social and health services.

• Existing nursing homes that have been converted to an assisted living facility under provisions of chapter 388-78A WAC.

(3) "Before and after school program" means a program licensed by the department of (~~early learning~~) children, youth, and families that provides early learning experiences for children five years of age through twelve years of age who are attending kindergarten or elementary school.

(4) "Birth center" or "childbirth center" are defined in chapter 18.46 RCW.

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

WAC 212-12-010 Adoption of codes and standards.

The following administrative codes and regulations are hereby adopted by reference as ((#)) set forth fully herein:

(1) Chapter 51-50 WAC, State Building Code adoption and amendment of the International Building Code.

(2) Chapter 51-51 WAC, State Building Code adoption and amendment of the International Residential Code.

(3) Chapter 51-52 WAC, State Building Code adoption and amendment of the International Mechanical Code.

(4) Chapter 51-54~~A~~ WAC, State Building Code adoption and amendment of the International Fire Code.

(5) Chapter 51-56 WAC, State Building Code adoption and amendment of the Uniform Plumbing Code.

(6) (~~Chapter 51-57 WAC, State Building Code adoption and amendment of Appendix A, B and Appendix I of the Uniform Plumbing Code.~~

(~~7~~)) 42 C.F.R. Ch. IV § 483.70, National Fire Protection Association, standard 101, "Life Safety Code," (~~(2000 edition)~~) current adopted edition by ((~~CMS-~~)Centers for Medicare/Medicaid Services(~~(s)~~)) (~~CMS~~) for application in ambulatory surgical centers, hospice care centers, nursing homes and hospitals.

AMENDATORY SECTION (Amending WSR 13-18-066, filed 9/3/13, effective 10/4/13)

WAC 212-12-015 Applicability. The provisions of this chapter apply to all facilities for which the director of fire protection is responsible for fire protection and enforcement including:

Adult rehabilitation center.

Alcoholism hospital.

Alcoholism intensive inpatient treatment services.

Alcoholism treatment facility.

(~~Psychiatric hospital~~)

Assisted living facility.

Before and after school program(~~(s)~~).

(~~Boarding home~~)

Birth center.

~~Child care ((occupancies)) occupancy.~~
~~Criminal prosecution.~~
~~Enhanced services facility.~~
~~Examination of premises.~~
~~Examination of witnesses.~~
 Group care facility.
 Group care ((facilities)) facility for severely and ((multi-
 pty)) multiple handicapped children.
~~Hazardous liquid and gas pipeline accidents—Prepared-
 ness of local first responders.~~
~~Hospice care center.~~
 Hospital.
 Nursing home.
~~((Transient accommodation.))~~
~~Psychiatric hospital.~~
~~Premises with guard animals—Registration, posting—
 Acts permitted firefighters—Liability for injury to firefight-
 ers.~~
 Public buildings.
~~((Enhanced services facilities.
 Examination of premises.))~~
~~Record of fires.~~
~~Removal of fire hazards—Appeal of order—Penalty.~~
~~Reports and investigations of fire—Police powers.~~
~~Residential treatment facility.~~
 Standard of safety.
 Schools—Standards for fire prevention and safety—
 Plan review and construction inspection.
~~((Removal of fire hazards—Appeal of order—Penalty.
 Reports and investigations of fire—Police powers.
 Statistical information and reports.
 Examination of witnesses.
 Criminal prosecution.
 Record of fires.~~
~~Premises with guard animals—Registration, posting—
 Acts permitted firefighters—Liability for injury to firefight-
 ers.~~
~~Hazardous liquid and gas pipeline accidents—Prepared-
 ness of local first responders.))~~
~~Statistical information and reports.~~
~~Transient accommodation.~~

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

WAC 212-12-020 Additional ((boarding-home)) assisted living facility requirements. This section shall be applicable to existing facilities that do not have fire sprinkler protection and smoke compartmentation on floors in which residents reside.

(1) ((Boarding-home)) Resident evacuation capability levels.

(a) Evacuation capability is the ability of the resident of a ((boarding-home)) facility licensed by the department of social and health services under chapter 18.20 RCW to respond to an emergency situation and either evacuate ((the boarding-home)) or move to a point of safety.

(b) Residents shall be classified by the facility administration in one of the following evacuation ((levels)) capabilities:

(i) ((Level-I)) Ambulatory - Persons physically and cognitively capable of walking or traversing a normal pathway to safety, including the ascent and descent of stairs, and capable of self-preservation, without the physical assistance of another person.

(ii) ((Level-II)) Semiambulatory - Persons physically and cognitively capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another person.

(iii) ((Level-III)) Nonambulatory - Persons physically or cognitively unable to walk or traverse a normal path to safety without the physical assistance of another person.

(2) Residents with evacuation capabilities of ((Level-II or Level-III)) semiambulatory or nonambulatory must reside on the grade level floor unless the ((boarding-home)) facility receives written approval by the director of fire protection to house these residents on other floor levels.

(3) The ((boarding-home)) facility must not admit or retain more than two residents with evacuation capabilities of ((Level-II or Level-III)) semiambulatory or nonambulatory unless:

(a) The ((boarding-home)) facility receives written approval by the director of fire protection to care for more than two residents with evacuation capabilities of ((Level-II or Level-III)) semiambulatory or nonambulatory; and

(b) The ((boarding-home)) facility is divided into at least two smoke barrier compartments on each floor; and

(c) The ((boarding-home)) facility has an operational automatic sprinkler system throughout the facility, unless the ((boarding-home)) facility was initially licensed prior to July 1, 2007, and is licensed for six or fewer residents.

AMENDATORY SECTION (Amending WSR 13-18-066, filed 9/3/13, effective 10/4/13)

WAC 212-12-022 ((Additional)) Before and after school program requirements. (1) ((Before and after school programs located in an existing, operational, public school or private school will be deemed as meeting code requirements at the time of their construction. Except that locations that are not equipped with an automatic fire sprinkler will be deemed as meeting code requirements only when the location of the program meets the following:

(a) Program must be located on the ground floor with direct exiting in the area the program is being provided;

(b) The building has an installed fire detection and alarm system; and

(c) The building has accessible fire extinguishers installed within the area the program is being provided.

(2)) Before and after school programs that are not located in an existing, operational, public or private school must be inspected as a new facility, as defined in WAC 212-12-005, and must be required to meet the code requirements outlined in chapter 19.27 RCW.

(2) Before and after school programs located in an existing, operational, public or private school wanting to change into a different license category as defined in chapter 43.216 RCW must meet the code requirements outlined in chapter 19.27 RCW.

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

WAC 212-12-025 Fire reporting requirements. Any facility licensed by the department of health or the department of social and health services, and inspected by the office of the state fire marshal, shall report within twenty-four hours to the office of the state fire marshal any accidental or unintentional fire, any deliberately set improper fire, any unusual incident that required implementation of the facility disaster plan, including any evacuation of all or part of the resident population to another area within the facility or to another address, and any circumstance which threatened or could have threatened the ability of the facility to ensure continuation of normal services to the residents.

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

WAC 212-12-030 Right of appeal for state cited facilities. The following procedure will apply to appeals of orders, decisions or citations made by the state fire marshal's office and it does not apply to CMS federal surveys:

(1) Administrative appeal (step 1) - A facility will have an opportunity to dispute cited deficiencies with a chief deputy state fire marshal. The purpose of this informal process is to give the facility an opportunity to refute cited deficiencies after an inspection. A written request with an explanation of the specific deficiencies that are being disputed (~~shall~~) must be submitted within (~~ten~~) fifteen days of receipt of the correction notice. All submittals (~~shall~~) must be sent to WSP-Fire Protection Bureau, P.O. Box (~~42600~~) 42642, Olympia, WA (~~98504-2600~~) 98504-2642 or via email at FIREMAR.SH@wsp.wa.gov. If a facility is successful in demonstrating that a deficiency should not have been cited, the chief deputy state fire marshal will remove or make the appropriate corrections to the citation. If a facility is unsuccessful in demonstrating that a deficiency should not have been cited, the facility will be notified in writing that the citation will remain unchanged. The facility will then have the option to proceed to step #2 in the administrative appeal process.

(2) Administrative appeal (step 2) - If a facility is not satisfied with the decision made during the administrative appeal (step 1), they may appeal the decision in writing within (~~seven~~) ten days of receipt of the written decision to the prevention division assistant state fire marshal. If a facility is successful in demonstrating that a deficiency should not have been cited, the assistant state fire marshal will remove or make the appropriate corrections to the citation. If a facility is unsuccessful in demonstrating that a deficiency should not have been cited, the facility will be notified in writing that the citation will remain unchanged. The facility will then have the option to proceed to step #3 in the administrative appeal process.

(3) Administrative appeal (step 3) - If a facility is not satisfied with the decision made during the administrative appeal (step 2), they may appeal the decision in writing within (~~seven~~) ten days of receipt of the written decision to the director of fire protection. If a facility is successful in demonstrating that a deficiency should not have been cited, the director of fire protection will remove or make the appro-

priate corrections to the citation. If a facility is unsuccessful in demonstrating that a deficiency should not have been cited, the facility will be notified in writing that the citation will remain unchanged.

(4) This is a final agency action.

Note: This appeal process is not applicable to the Life Safety Code inspections.

AMENDATORY SECTION (Amending WSR 02-16-023, filed 7/29/02, effective 8/29/02)

WAC 212-12-035 Special requirements. In addition to the fire and life safety standards listed in WAC (~~212-12-030~~) 212-12-010, the following shall apply: (~~++~~) In nursing homes, fire alarm system annunciators shall be provided where the system serves more than one floor, one fire or smoke division, or one building. They shall be located at each main nurses' station on each floor, fire or smoke division, and/or building.

(2) In all Group E-3, I, LC Occupancies, annual certification of fire alarm systems shall be performed by the holder of a current low-voltage electrical contractors specialty license issued by the department of labor and industries.

(3) Every story, and basements of Group LC Occupancies shall have not less than two exits.

Exception: Basements used exclusively for the service of the building may have one exit. For the purpose of this exception, storage rooms, laundry rooms, maintenance offices, and similar uses shall not be considered as providing service to the building.

(4) In all (~~Groups E-3, I, and LC~~) occupancies inspected by the state fire marshal's office, emergency lighting for means of egress shall be provided. Emergency systems shall activate automatically in a power failure and be supplied from storage batteries or an on-site generator set. (~~The system shall be installed in accordance with the requirements of the Electrical Code.~~)

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

WAC 212-12-040 Fire (~~emergency~~) safety/evacuation/lockdown plan. All (~~Group I, Group E, and Group R2~~) occupancies inspected by the state fire marshal's office shall develop and maintain a written (~~fire emergency~~) plan. In addition to the adopted code and standards in WAC 212-12-010, the plan shall include the following:

(1) Action to take by the person discovering a fire.

(2) Method of sounding an alarm on the premises.

(~~3~~) Actions to take for evacuation and assuring accountability of the occupants.

(4) An evacuation floor plan identifying exits.

(5) In Group R, Division 1 Occupancies and Group R, Division 3 Occupancies used as transient accommodations, a copy of the written evacuation plan shall be posted in each guest room.

AMENDATORY SECTION (Amending WSR 08-06-050, filed 2/28/08, effective 3/30/08)

Deputy Supervisor
State Uplands

WAC 212-12-044 Fire drills. In all Group I, Group E, and Group R2 Occupancies licensed by the state and inspected by the state fire marshal's office, at least twelve planned and unannounced fire drills shall be held every year.

(1) Drills shall be conducted quarterly on each shift in Group I and Group R2, Occupancies and monthly in Group E Occupancies to familiarize personnel with signals and emergency action required under varied conditions.

(2) A detailed written record of all fire drills shall be maintained and available for inspection ~~((at all times))~~.

(3) When drills are conducted between 9:00 p.m. and 6:00 a.m., a coded announcement may be used instead of audible alarms. ~~((Fire drills shall include the transmission of a fire alarm signal and simulation of emergency conditions. The fire alarm monitoring company shall be notified prior to the activation of the fire alarm system for drill purposes and again at the conclusion of the transmission and restoration of the fire alarm system to normal mode.))~~

AMENDATORY SECTION (Amending WSR 05-13-104, filed 6/17/05, effective 7/18/05)

WAC 332-120-040 Monument removal or destruction. (1) All land boundary survey monuments that are removed or destroyed shall be replaced or witness monuments shall be set to perpetuate the survey point.

(2) A land boundary survey corner shall be referenced to the Washington plane coordinate system ((of 1983)) as established and designated by chapter 58.20 RCW, prior to removal or destruction. See WAC 332-130-070(2), land boundary survey standards.

An applicant may request a variance from this referencing requirement by so noting in the applicant information section on the permit and providing the justification on the back of the form. The department shall note whether the variance is approved or not approved and shall provide the reason for not approving the request.

WSR 20-20-069

PERMANENT RULES DEPARTMENT OF

NATURAL RESOURCES

[Filed October 1, 2020, 4:36 p.m., effective November 1, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Remove reference to the Washington coordinate system datum NAD 83 as listed in WAC 332-120-040(2). The reference is outdated and needs to be corrected to be the Washington plane coordinate system as established and designated by chapter 58.20 RCW.

Citation of Rules Affected by this Order: Amending WAC 332-120-040.

Statutory Authority for Adoption: RCW 58.24.030, 58.24.040, 58.09.050, and 58.17.160.

Adopted under notice filed as WSR 20-08-047 on March 25, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 30, 2020.

Angus Brodie

WSR 20-20-073

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 2, 2020, 10:20 a.m., effective November 2, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The adopted rules implement several changes to Title 192 WAC. New rules include adding a definition for "placement" of a child for eligibility for family bonding leave and clarification on how the employment security department will determine the premium rate for each calendar year. Amended rules include: Clarification on when a claim year will be established; information regarding the documentation required for the birth or placement of a child; a description of how a benefit will be prorated; additional information regarding the conditions under which an order of default will be vacated; and other clarifying and technical changes.

Citation of Rules Affected by this Order: New WAC 192-500-195 Placement and 192-510-090 How will the department determine the premium rate for each calendar year?; and amending WAC 192-500-040 Aggrieved party, 192-500-070 Claim year, 192-500-080 Qualifying event, 192-500-170 Self employed, 192-610-025 Documenting the birth or placement of a child for paid family leave, 192-620-035 When will a weekly benefit amount be prorated?, 192-800-035 Who can appeal or submit a petition for review?, 192-800-045 When can an appeal be withdrawn?, and 192-800-110 What options are available for an aggrieved party who received an order of default?

Statutory Authority for Adoption: RCW 50A.05.060.

Adopted under notice filed as WSR 20-16-149 on August 5, 2020.

Changes Other than Editing from Proposed to Adopted Version: WAC 192-500-080 (1) and (2), the subsections were removed from the RCW 50A.05.010 references. WAC 192-500-170 (1)(d), the subsection was removed from the RCW 50A.05.010 reference.

A final cost-benefit analysis is available by contacting April Amundson, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-485-2816, TTY Washington relay 711 (contact Teresa Eckstein at 360-507-9890 for accommodations), email rules@esd.wa.gov, website https://www.opentownhall.com/portals/289/forum_home.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 9, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 9, Repealed 0.

Date Adopted: October 2, 2020.

April Amundson
Policy and Rules Manager
for Paid Family and Medical Leave

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-500-040 Aggrieved ((person)) party. An "aggrieved ((person)) party" is any interested party who receives an adverse decision from:

- (1) The department for which the department has provided notice of appeal;
- (2) The employer with an approved voluntary plan for which that employer has provided notice of appeal;
- (3) The office of administrative hearings; or
- (4) The commissioner's review office.

AMENDATORY SECTION (Amending WSR 20-11-033, filed 5/14/20, effective 6/14/20)

WAC 192-500-070 Claim year. (1) A "claim year" is the period beginning Sunday of the week of the date an eligible employee files a complete initial application for benefits and ending the Saturday fifty-two weeks later.

(2) The entitlement to family leave benefits for the birth or placement of a child expires at the end of the twelve-month period beginning on the date ((of such birth or placement)) the child was first placed in the home.

(3) For applications that are backdated, the claim year is the fifty-two week period beginning Sunday of the week to which the application was backdated.

(4) An employee may only have one valid claim year at a time.

(5) A new claim year will not be established for an employee who:

(a) Is determined to have less than eight hundred twenty hours in their qualifying period; or

(b) Fails to sufficiently prove their identity to the department.

Example 1: An employee experiences an injury that qualifies as a serious health condition. Three days later, on Thursday, March 4, 2021, the employee files a complete initial application for medical leave benefits. The employee's claim year will run from Sunday, February 28, 2021, to Saturday, February 26, 2022.

Example 2: An employee filed an application for medical leave in March 2021. The employee took four weeks of medical leave and returned to work. The employee's spouse gives birth to a child in September 2021. The employee elects not to take family leave until April 2022. Because the employee's first claim year has already expired, the employee must file a new application and begin a new claim year in order to take family leave beginning in April 2022.

Example 3: An employee gives birth on Thursday, March 4, 2021. The employee elects not to submit an application for paid family leave until Monday, April 5, 2021. Though the employee's claim year will run from Sunday, April 4, 2021, to Saturday, April 2, 2022, the employee will not be able to claim family leave after March 3, 2022, for the birth of the child. The employee can claim leave for other qualifying reasons for the period March 4, 2022, through April 2, 2022, subject to the maximum duration limits.

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-500-080 Qualifying event. A "qualifying event" is:

- (1) For family leave, events described in RCW 50A.05.010 ((9)) and related rules.
- (2) For medical leave, events described in RCW 50A.05.010 ((14)) and related rules.

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-500-170 Self-employed. (1) A "self-employed" person is:

- (a) A sole proprietor;
- (b) A joint venturer or a member of a partnership that carries on a trade or business, contributes money, property, labor or skill and shares in the profits or losses of the business;
- (c) A member of a limited liability company;
- (d) An independent contractor who works as described in RCW 50A.05.010 ((7)(b)(ii)); or
- (e) Otherwise in business for oneself as indicated by the facts and circumstances of the situation, including a part-time business.

(2) A corporate officer is an employee and not self-employed.

NEW SECTION

WAC 192-500-195 Placement. (1) For the purposes of qualifying for paid family leave to bond with a child under

RCW 50A.05.010, "placement" means the adoptive, guardianship, foster care, or nonparental custody placement of a child under the age of eighteen with the employee. A placement is considered:

(a) An adoptive placement when the employee is legally and permanently assuming the responsibility of raising the child as their own, and the placement of the child into the employee's home is made through a private arrangement, a child placement agency, or a government agency.

(b) A guardianship placement when the employee is granted guardianship of a child by court order, and the child is placed in the home under:

- (i) Title 11 RCW;
- (ii) Title 13 RCW; or

(iii) Any other applicable guardianship that reflects the purpose, permanency, and legal authority of guardianships under Titles 11 and 13 RCW, including guardianships granted out of this state or country.

(c) A foster care placement when the employee is providing care for a child placed in the employee's home. Such placements must involve voluntary or involuntary removal of the child from the child's parents or guardian, and an agreement between a government agency and the foster family that the foster family will take care of the child. Although foster care placement may be with a relative of the child or another individual who may not have a foster care license, government agency action must be involved in the removal of the child.

(d) A nonparental custody placement when the child is placed into the home of the employee by court order granting the employee nonparental custody.

(2) For the purposes of this section, a "government agency" may include an agency of any branch of government at the county, state, or federal level, or a foreign jurisdiction.

(3) The entitlement to paid family leave benefits for placement of a child expires at the end of the twelve-month period beginning on the date the child was first placed in the home.

(4) When applying for paid family leave to bond with a child, the employee must provide documentation referenced in WAC 192-610-025 to verify placement of the child.

(5) Qualifying paid family leave to bond with a child placed for adoption, guardianship, foster care, or nonparental custody does not include:

- (a) Placement with a birth parent; and
- (b) Any adoptive, guardianship, foster care, or nonparental custody placement of a child with an employee that occurs more than twelve months after that child is first placed in the employee's home.

NEW SECTION

WAC 192-510-090 How will the department determine the premium rate for each calendar year? (1) For calendar year 2021 and thereafter, the total premium rate shall be based on the family and medical leave insurance account balance ratio as of September 30th of the previous year.

(2) The commissioner shall calculate the account balance ratio by dividing the balance of the family and medical

leave insurance account by total covered wages paid by employers and those electing coverage.

(3) For the purposes of this section, "total covered wages" is defined as the total amount of wages paid to employees that are subject to the paid family and medical leave premium from July 1st of the previous calendar year to June 30th of the current calendar year as reported by employers.

AMENDATORY SECTION (Amending WSR 19-08-016, filed 3/22/19, effective 4/22/19)

WAC 192-610-025 Documenting the birth or placement of a child for paid family leave. (1) When paid family leave is taken to bond with the employee's child after birth (~~or placement, the department may request~~), the employee must provide a copy of:

- ~~((1))~~ (a) The child's birth certificate; or
- ~~((2))~~ (b) Certification of birth from a health care provider (~~;~~
- ~~(3) Court documents to show~~);

(2) When paid family leave is taken to bond with the employee's child after the child's placement as defined in WAC 192-500-195, the employee must provide a copy of a court order verifying placement (~~;~~

(4) Other reasonable). If a court order is not available, the department may accept alternate documentation sufficient to verify the placement.

(3) Additional documentation may be requested to substantiate the qualifying event.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-620-035 When will a weekly benefit amount be prorated? (1) For an employee on paid family or medical leave, a weekly benefit amount is prorated when:

- ~~((1))~~ (a) The employee (~~works~~) reports hours (~~for wages; or~~
- ~~(2)) worked~~;

(b) The employee (~~uses~~) reports hours for paid sick leave, paid vacation leave, or other paid time off that is not considered a supplemental benefit payment as defined in WAC 192-500-180; or

(c) The employee files a weekly application for benefits that contains a day or days for which the employee did not claim paid family or medical leave.

(2) If an employee reports hours under subsection (1)(a) or (b) of this section, proration will be calculated as specified by RCW 50A.15.020(2).

(3) If an employee claims part of a week under subsection (1)(c) of this section, proration will be calculated by dividing the employee's typical workweek hours and weekly benefit amount for that week by sevenths, then multiplying by the number of days for which the employee claimed paid family or medical leave for that week. The remainder of the week will be calculated as specified by RCW 50A.15.020(2) and subsection (1)(a) and (b) of this section.

Example 1: An employee has already served a waiting period in the claim year and files a claim for a week of paid medical leave. The employee typically works forty hours a

week at eight hours per day. In the week for which the employee is claiming, the employee claimed one day of paid medical leave and worked the other four days. This employee's weekly benefit is usually ~~(\$800)~~ eight hundred dollars. The weekly benefit would then be prorated by the hours on paid medical leave (eight hours) relative to the typical workweek hours (~~((40))~~ forty hours). Eight hours is ~~((20% of 40))~~ twenty percent of forty hours. The employee's weekly benefit would be prorated to ~~((20%))~~ twenty percent for a total of ~~(\$160)~~ one hundred sixty dollars.

Example 2: An employee files a claim for eight hours of paid family and medical leave and takes sick leave from the employer for the same day. The employer does not offer the sick leave as a supplemental benefit payment. The sick leave is considered hours worked by the employee. The employee is being paid for the same hours claimed on paid family and medical leave. This employee is not eligible for benefits for this week.

Example 3: The employee's typical workweek hours are forty hours per week, and the weekly benefit amount is one thousand dollars. The employee files a claim for leave that starts on a Tuesday. Because the employee's claim did not include Sunday or Monday of that week, the employee's typical workweek hours and weekly benefit amount for that week will be prorated by two-sevenths, or two days of the seven days in the week. For that week only, the employee's typical workweek hours will be twenty-eight (five-sevenths of forty, rounded down to the nearest hour) and the weekly benefit amount will be seven hundred fourteen dollars (five-sevenths of one thousand dollars, rounded down to the nearest dollar).

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-800-035 Who can appeal or submit a petition for review? (1) An aggrieved ~~((person))~~ party as defined in WAC 192-500-040 may file an appeal to the department by using the department's online services, or in another format approved by the department.

(2) Any aggrieved ~~((person))~~ party who receives a decision from the office of administrative hearings, other than an order approving a withdrawal of appeal, a consent order, or an interim order, may file a written petition for review, including filing by using the department's online services, or in another format approved by the department.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-800-045 When can an appeal be withdrawn? An aggrieved ~~((person))~~ party may withdraw their appeal or petition for review upon approval by the office of administrative hearings or the commissioner's review office, respectively, at any time prior to the decision, in which case the determination, redetermination, order and notice of assessment of premiums or penalties, or other decision appealed, shall be final in accordance with the provisions of Title 50A RCW.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-800-110 What options are available for an aggrieved ~~((person))~~ party who received an order of default? (1) Any ~~((person))~~ party aggrieved by the entry of an order of default may:

(a) File a motion to vacate the order of default with the office of administrative hearings within ~~((seven))~~ ten days of ~~((issuance))~~ the date of mailing of the order of default; or

(b) File a petition for review from such order by complying with the filing requirements set forth in WAC 192-800-100.

(2) The provisions in subsection (1)(a) of this section toll the appeal period for filing a timely petition for review with the commissioner's review office until the office of administrative hearings issues a ruling on the motion. However, should a petition for review be filed while a ruling on a motion to vacate is pending, the office of administrative hearings no longer has jurisdiction to vacate the default order.

(3) Under subsection (1)(a) of this section, an order of default will be vacated by the presiding officer only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. If the order of default is vacated, the presiding administrative law judge will conduct a hearing on the merits and issue a decision.

(4) Under subsection (1)(b) of this section, an order of default will be set aside by the commissioner's review office only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. In the event such an order of default is set aside, the commissioner will remand the matter to the office of administrative hearings for hearing and decision.

WSR 20-20-074

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 2, 2020, 10:24 a.m., effective November 2, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The adopted rules implement provisions of SHB 2614 (chapter 125, Laws of 2020) related to administering the paid family and medical leave program. Amended rules include: Adding a reference to casual labor under the definition of employer; amending the definition of interested parties to allow interested parties to receive information about complaints under chapter 50A.40 RCW; and amending the definition of waiting period so that a waiting period does not apply to family leave taken for reasons related to a qualified military exigency. New sections include: A rule to describe the process for employees to file complaints alleging unlawful acts by an employer; a rule to describe the process the employment security department (department) will use to investigate allegations of unlawful acts; and a rule outlining how the department will assess damages and liquidated damages when an employer violates RCW 50A.40.010.

Citation of Rules Affected by this Order: New WAC 192-570-030 What is the process for an employee to file a

complaint alleging that an employer committed unlawful acts?, 192-570-040 What happens when the department receives a complaint alleging unlawful acts by an employer? and 192-570-050 How are damages and liquidated damages assessed by the department, awarded, and paid?; and amending WAC 192-500-010 Employer, 192-500-035 Interested parties, and 192-500-185 Waiting period.

Statutory Authority for Adoption: RCW 50A.05.060.

Other Authority: SHB 2614 (chapter 125, Laws of 2020).

Adopted under notice filed as WSR 20-16-148 on August 5, 2020.

A final cost-benefit analysis is available by contacting April Amundson, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-485-2816, TTY Washington relay 711 (contact Teresa Eckstein at 360-507-9890 for accommodations), email rules@esd.wa.gov, website https://www.opentownhall.com/portals/289/forum_home.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 3, Amended 3, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 3, Repealed 0.

Date Adopted: October 2, 2020.

April Amundson
Policy and Rules Manager
for Paid Family and Medical Leave

AMENDATORY SECTION (Amending WSR 18-22-080, filed 11/2/18, effective 12/3/18)

WAC 192-500-010 Employer. (1) An "employer" is:

(a) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this chapter;

(b) The state, state institutions, and state agencies;

(c) Any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision; and

(d) A franchisee.

(2) "Employer" does not include the United States of America.

(3) For the purposes of paid family and medical leave, the term employer is used for both employer and employer agent.

(4) This section does not apply to:

(a) Any self-employed person or federally recognized tribe that has not elected coverage under Title 50A RCW; and

(b) Any person performing casual labor as defined in RCW 50A.05.010.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-500-035 Interested parties. (1) In all determinations, cases, and appeals adjudicated under Title 50A RCW the employment security department is an "interested party."

(2) Other interested parties in paid family or medical leave determinations related to the state plan, complaints under chapter 50A.40 RCW, and appeals include:

(a) The employee or former employee; and

(b) An employer or former employer of that employee that is required to provide information to the department related to the determination or appeal in question.

(3) Other interested parties in paid family or medical leave determinations related to an approved voluntary plan include:

(a) The employer or former employer; and

(b) An employee or former employee.

(4) The department may designate an employee or employer as an interested party in other determinations made by the department.

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-500-185 Waiting period. (1) A "waiting period" is the first seven consecutive calendar days beginning with the Sunday of the first week an eligible employee starts taking paid family or medical leave.

(2) An employee will satisfy the waiting period requirement if the employee takes at least eight consecutive hours of leave during the first week of the employee's paid family or medical leave claim.

(3) An employee will not receive a benefit payment for hours claimed during the waiting period.

(4) Subject to subsection (6) of this section, an employee must only meet the requirement of one waiting period in a claim year.

(5) If an employee is denied eligibility for a period of time that satisfied the waiting period requirement, the waiting period requirement will not be deemed satisfied for a future claim for which the employee is deemed eligible.

(6) The waiting period does not apply to:

(a) Family leave taken for bonding after the child's birth or placement; or

(b) Family leave taken for reasons related to a qualified military exigency.

(7) An employee's use of paid time off for all of or any portion of the waiting period will not affect the satisfaction of the waiting period requirement.

NEW SECTION

WAC 192-570-030 What is the process for an employee to file a complaint alleging that an employer committed unlawful acts? (1) Any employee as defined in RCW 50A.05.010 may file a complaint with the department alleging one or more violations of RCW 50A.40.010. A complaint must be submitted on a form provided by the department, or in another format approved by the department.

(2) An employee may alternatively seek a private right of action under chapter 50A.40 RCW to recover damages described in RCW 50A.40.030. A private right of action is only available to an employee who has:

- (a) Not filed a complaint with the department;
- (b) Withdrawn a filed complaint under subsection (4) of this section; or
- (c) Resolved a complaint under subsection (5) of this section.

(3) All complaints alleging a violation of RCW 50A.40.010, whether filed with the department or through a private right of action, must be filed within three years of the date the violation is alleged to have occurred.

(4) An employee who has filed a complaint with the department may withdraw the complaint by providing written notice to the department within ten days from the date the department acknowledges receipt of the complaint. A withdrawal of a complaint terminates the department's administrative action, including investigation of the complaint.

(5) If a resolution is reached between the employee and the employer during the course of the investigation, a statement of resolution must be signed by the employee and the employer and provided to the department. Resolution between the employee and the employer terminates the department's administrative action related to the complaint.

NEW SECTION

WAC 192-570-040 What happens when the department receives a complaint alleging unlawful acts by an employer? (1) Upon receipt of a complaint, the department will investigate allegations of an employer committing unlawful acts as described in RCW 50A.40.010.

(2) The department may request additional information from other parties including, but not limited to, employees, employers, and potential witnesses.

(3) Under chapter 50A.05 RCW, the department may subpoena potential witnesses, compel their attendance for deposition, and require production for examination of any books, papers, correspondence, memoranda, and any other records deemed necessary as evidence in order to make a determination and assess all damages.

(4) If the department finds a violation did not occur, the complaint will be closed and a determination will be sent to all interested parties.

(5) If the department finds one or more violations occurred, the department will determine the monetary amount of all damages the employer owes to the employee as referenced in WAC 192-570-050, and a determination will be sent to all interested parties.

(6) Any aggrieved party may file an appeal of the department's determination under chapter 50A.50 RCW.

(7) The department may consider any information obtained in the investigation under this chapter as cause to initiate audits for employer files and records.

NEW SECTION

WAC 192-570-050 How are damages and liquidated damages assessed by the department, awarded, and paid?

(1) If the department finds the employer has violated RCW 50A.40.010, the department will assess monetary damages referenced in RCW 50A.40.030 plus any interest accrued on the assessed damages.

(2) If the department finds that the employer has committed a violation of RCW 50A.40.010 that is willful as defined in RCW 50A.40.030(4), additional liquidated damages will be added equal to the sum of the assessed damages.

(3) Damages and liquidated damages must be paid by the employer directly to the employee.

(4) If liquidated damages are assessed, the employer must pay all damages owed directly to the employee within thirty calendar days from the day the determination is issued, unless the employer files an appeal under chapter 50A.50 RCW.

(5) The department is not responsible for collection action against an employer that defaults on the payment of all damages awarded. A collection action may be initiated by the employee against the employer by filing a warrant with the clerk of any county within the state.

**WSR 20-20-091
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD**

[Filed October 5, 2020, 9:58 a.m., effective November 5, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This WAC adds clinical practice minimum hour requirement[s] for CTE B&I teacher and administrator programs.

Citation of Rules Affected by this Order: Amending WAC 181-78A-236.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Adopted under notice filed as WSR 20-16-028 on September [July] 25, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making:

New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 2, 2020.

Maren Johnson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 19-15-144, filed 7/24/19, effective 8/24/19)

WAC 181-78A-236 Teacher, principal, career and technical education program director, superintendent, and program administrator—Specific program approval domain standard—Field experience and clinical practice. Field experience and clinical practice. Providers offer field-based learning experiences and formalized clinical practice experiences for candidates to develop and demonstrate the knowledge and skills needed for their role.

(1) Providers establish and maintain field placement practices, relationships, and agreements with all school districts in which candidates are placed for field experiences leading to certification or endorsement per WAC 181-78A-125 and 181-78A-300.

(a) The program provider and school partners cooperatively design, implement, and evaluate field experiences and clinical practices conforming to board standards and requirements for the role.

(b) Clinical practice for teacher candidates in programs approved to offer traditional routes to teacher certification must consist of no less than four hundred fifty hours in a classroom setting, with a qualifying mentor teacher. Clinical practice for teacher candidates in programs approved to offer alternative routes to certification must consist of no less than five hundred forty hours in a classroom setting with a qualifying mentor.

(c) Principal candidates complete an internship for a full school year, consisting of at least five hundred forty hours, half of which must be during school hours when students and/or staff are present. Interning candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-220 and 181-78A-232 and meets, at minimum, the standards-based benchmarks approved and published by the board.

(d) Superintendent candidates must complete an internship of at least three hundred sixty hours. Interning candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in WAC 181-78A-220 and 181-78A-232.

(e) Candidates in career and technical education teacher preparation programs as described in WAC 181-77-031 must complete a student teaching experience of at least four hundred fifty hours. Candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in the career and technical education standards approved by the professional educator standards board.

(f) Candidates in career and technical education administrator and business and industry route programs must complete a practicum of at least sixty hours. Candidates must demonstrate that they have the appropriate, specific skills pursuant to the standards identified in the career and techni-

cal education standards approved by the professional educator standards board.

(g) Providers articulate in writing clear entry and exit criteria as well as a process for mitigating concerns during clinical practice for candidates, school leader(s), and the mentor.

(2) Providers ensure that candidates integrate knowledge and skills developed through field and industry experiences with the content of programs' course work.

(a) Providers offer field experiences in which teacher and principal candidates plan, practice, discuss, and reflect upon methods of instruction and differentiation, and all educator candidates demonstrate that they have the appropriate, specific relevant skills pursuant to WAC 181-78A-220, 181-78A-232, and 181-78A-300 to be effective in the role.

(b) Integrate assignments, assessments, and actionable feedback throughout candidates' field experiences.

(c) Provide faculty supervision, including on-site visits, on an ongoing basis.

(d) Identify and recruit mentors for candidates who are educational leaders collaboratively with the partner school(s) or district(s).

(e) Ensure that candidates' mentors are fully certificated school personnel and have a minimum of three years of professional experience in the role they are supervising.

(f) Mentors and school leaders are provided with a set of internship expectations and receive, or provide evidence of having received, training and experience mentoring adult learners and culturally responsive teaching and learning.

(g) Effectiveness of mentor preparation and communication are reviewed annually by program faculty.

(3) Providers offer field experiences and related assessment requirements in accordance with WAC 181-78A-300 and the board approved candidate assessment requirements.

(a) Ensure that educator candidates are placed in settings where they can be evaluated and given actionable feedback.

(b) Ensure that educator candidates are fingerprinted and have completed required character clearance prior to placement in field experience settings.

(c) Ensure that teacher candidates have completed knowledge and skills assessments requirements in accordance with this section and WAC 181-78A-300(2) prior to beginning student teaching.

(4) Providers ensure that candidates participate in field experiences in school settings with students and teachers who differ from themselves in race, ethnicity, home language, socio-economic status or local population density.

(a) Field experiences provide opportunities to work in communities or with student populations with backgrounds dissimilar to the background of the candidate.

(b) Course assignments and discussions offer candidates opportunities to reflect upon interactions with diverse populations and communities in order to integrate professional growth in cultural responsiveness as a habit of practice.

(c) Candidates have opportunities to design, implement and receive feedback on cultural responsiveness in lessons, assignments, and activities.

WSR 20-20-092
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed October 5, 2020, 10:04 a.m., effective November 5, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule adds requirements for professional education advisory board membership.

Citation of Rules Affected by this Order: Amending WAC 181-78A-205, 181-78A-207, and 181-78A-209.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Adopted under notice filed as WSR 20-16-029 on September [July] 25, 2020.

Changes Other than Editing from Proposed to Adopted Version: The word "appointed" was changed to "recommended."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 2, 2020.

Maren Johnson
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-02-028, filed 12/28/11, effective 1/28/12)

WAC 181-78A-205 Required professional education advisory board. Institutions and organizations seeking approval by the professional educator standards board as an approved preparation program, and in order to maintain such approval status, shall establish a professional education advisory board (PEAB) in accordance with the following:

(1) The program areas for which an institution or organization may seek approval and maintain an approved preparation program are:

(a) Teacher.

(b) Career and technical education business and industry route teacher.

(c) Administrator.

~~((e))~~ (d) Career and technical education business and industry route administrator.

(e) Educational staff associate (ESA), school counselor.

~~((f))~~ (f) Educational staff associate, school psychologist.

(2) An institution or organization may combine educational staff associate professional education advisory boards as long as one-half or more of the voting members are appointed by the associations representing the ESA roles involved and are divided equally among those roles.

(3) An institution or organization may have separate administrator professional education advisory boards for each administrator role as long as one-half or more of the voting members are appointed by the association representing the administrator role involved: ~~((Provided, That))~~ Each administrator PEAB shall include at least one member appointed by the Association of Washington School Principals (AWSP), one appointed by the Washington Association of School Administrators (WASA), and one appointed by the Washington Federation of Independent Schools (WFIS).

(4) The failure of a designated organization, as specified in WAC 181-78A-209, to make appointments to the designated board, or to make such appointments in a timely manner, shall not cause the preparation program to lose its approval status.

AMENDATORY SECTION (Amending WSR 11-01-047, filed 12/7/10, effective 1/7/11)

WAC 181-78A-207 Qualification to be appointed to an institution or organization professional education advisory board. (1) Professional education advisory boards may authorize the appointment of additional representatives from other school districts or other public and private agencies as long as one-half or more of the members of the professional education advisory board consist of representatives who meet the qualifications of this subsection and who are from the role for which the professional education advisory board has responsibility.

(2) If any professional education advisory board receives a written request from other school districts or other public or private agencies for representation on such professional education advisory board, the current members of such professional education advisory board shall vote on such request at the next regular meeting of such board ~~((Provided, That))~~. A program may elect to add private school representatives to a professional education advisory board without adding to the representation from the role for which the professional education advisory board has responsibility if the professional education advisory board authorizes such action by a majority vote.

AMENDATORY SECTION (Amending WSR 12-02-028, filed 12/28/11, effective 1/28/12)

WAC 181-78A-209 Professional education advisory boards—Membership. The professional education advisory boards shall at a minimum consist of the following:

(1) TEACHER.

(a) One-half or more of the voting members ~~((shall be))~~ are classroom teachers. All, but one, ~~((with))~~ must be appointed by the president of the Washington Education Association. The remaining teacher ~~((shall))~~ must be employed in a state-approved private school and appointed by the Washington Federation of Independent Schools.

(b) At least one principal appointed by the president of the Association of Washington School Principals.

(c) At least one school administrator appointed by the Washington Association of School Administrators.

(d) At least one educational staff associate (school counselor, school psychologist, school social worker, school nurse, school occupational therapist, school physical therapist, or school speech language pathologist or audiologist) appointed by the president of the individual's professional association.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

(f) At programs where career and technical education programs are offered in conjunction with general educator residency certification programs, one career and technical education director or career and technical education teacher, with expertise in one of the approved career and technical education programs at the institution or organization, appointed by the Washington Association of ~~(Vocational)~~ Career and Technical Administrators in cooperation with the institution or organization.

(2) CAREER AND TECHNICAL EDUCATION BUSINESS AND INDUSTRY ROUTE TEACHER.

(a) One-half or more of the voting members are career and technical education teachers. One-half of these teachers must be recommended by the Washington Association for Career and Technical Education. The remaining teachers must be appointed by the educator preparation program. At least one career and technical education teacher on the advisory board must be prepared through a Washington state business and industry route preparation program.

(b) At least one career and technical education director recommended by the Washington Association for Career and Technical Administrators.

(c) At least one secondary school administrator recommended by the Washington Association of Career and Technical Administrators' area group associated with the educator preparation program.

(d) At least one career and technical education career guidance specialist, or one career and technical education occupational information specialist, or one career and technical education counselor.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

(3) ADMINISTRATOR.

(a) One-half or more of the voting members ~~((shall be))~~ are administrators. One-half of these administrators ~~((shall))~~ must be appointed by the president of the Washington Association of School Administrators. The remaining administrators shall be appointed by the president of the Association of Washington School Principals except one who shall be employed in an approved private school and appointed by the Washington Federation of Independent Schools.

(b) At least one or more classroom teachers appointed by the president of the Washington Education Association.

(c) At least one educational staff associate (school counselor, school psychologist, school social worker, school nurse, school occupational therapist, school physical therapist, or school speech language pathologist or audiologist)

appointed by the president of the individual's professional association.

(d) At least one institution or organization representative who may serve in a voting or nonvoting role.

~~((3))~~ **(4) CTE ADMINISTRATOR.**

(a) One-half or more of the voting members are certified career and technical education administrators. One-half of these administrators must be recommended by the Washington Association of Career and Technical Administrators' area group associated with the educator preparation program. The remaining administrators must be appointed by the educator preparation program.

(b) At least one or more career and technical education teacher recommended by the Washington Association for Career and Technical Education.

(c) At least one secondary school administrator recommended by the Washington Association of Career and Technical Administrators' area group associated with the program.

(d) At least one career and technical education career guidance specialist, or one career and technical education occupational information specialist, or one career and technical education counselor appointed by the educator preparation program.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

(5) SCHOOL COUNSELOR.

(a) At least one-half of the voting members ~~((shall be))~~ are school counselors appointed by the president of the Washington School Counselors Association.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

~~((4))~~ **(6) SCHOOL PSYCHOLOGIST.**

(a) At least one-half of the voting members ~~((shall be))~~ are school psychologists appointed by the president of the Washington State Association of School Psychologists.

(b) At least one teacher appointed by the president of the Washington Education Association.

(c) At least one principal appointed by the Association of Washington School Principals.

(d) At least one administrator appointed by the Washington Association of School Administrators.

(e) At least one institution or organization representative who may serve in a voting or nonvoting role.

~~((5))~~ **(7) MEMBERSHIP APPOINTMENTS.** Applicable to all professional association appointments, if the professional association does not respond to the program's request ~~((for an appointment of a representative))~~ within sixty days of the receipt of the request, a program may appoint the representative of its choice in the role for which ~~((an appointment))~~ a representative is being sought. If the program makes an appointment, it must notify the appropriate professional association within one week that the appointment has been made. If an association is unable to appoint a representative due to the geographic restriction of possible candidates, the PEAB

will appoint an alternate to represent that association with their consent.

WSR 20-20-108
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 6, 2020, 9:05 a.m., effective January 1, 2021]

Effective Date of Rule: January 1, 2021.

Purpose: Classification development's goal is to implement clear rule writing to ensure staff and customers can easily understand and apply the workers' compensation insurance classification and reporting rules. Classification development studied some subclassifications for potential reduction in number; and reviewed classification and reporting rules for improvement and clarification.

The purpose of this rule making is not to make substantive changes to how employers are classified and amendments will not impact employer rates.

As part of this rule making, the department of labor and industries (L&I) also reviewed these chapters for need, clarity, and consistency to make changes where possible to reduce the regulatory burden on employers insured with the state fund.

L&I is required by law to establish and maintain a workers' compensation classification plan that classifies all occupations or industries in accordance with their degree of hazard and in a manner consistent with recognized insurance principles (RCW 51.16.035). We propose amending some classifications to increase ease of reporting, and ensure consistent and equitable treatment to businesses.

Also adopted in this rule making are updates to two penalty rules, required as a result of the passage of SHB 2409 passed in 2019.

Citation of Rules Affected by this Order: Amending WAC 296-17-31004 Coverage requirements, 296-17-31006 Application process, 296-17-31007 Owner/officer coverage and coverage for exempt employments, 296-17-31021 Units of exposure, 296-17-31023 Premium reporting, 296-17-35201 Recordkeeping and retention, 296-17-35203 Special reporting instructions, 296-17-35204 Penalty assessments for employers who fail to register under Title 51 RCW, 296-17A-0101 Land clearing, 296-17A-0301 Landscape construction operations, N.O.C., 296-17A-1002 1002-08 Shake and shingle mills—Automated process, 296-17A-1007 Geophysical exploration, N.O.C., 296-17A-1108 Glass merchants, 296-17A-2008 Warehouses—Field bonded, 296-17A-2903 Wood products manufacturing, 296-17A-3101 Ready mix concrete dealers, 296-17A-3102 Rock wool insulation: Manufacturing, 296-17A-3402 Pump, safe, scale, auto jack, water meter, air compressor and elevator: Manufacturing or assembly, 296-17A-3506 Concrete pump truck service, 296-17A-3701 Chemical manufacturing, 296-17A-3902 Food sundries manufacturing, 296-17A-4802 Farms: Berry, 296-17A-4808 Farms: Diversified crops, 296-17A-4910 Chimney cleaning—Residential buildings, 296-17A-5307 State government employees - N.O.C., 296-17A-6411

Tobacco and marijuana products, vaporizers and liquids, and smoking accessories, 296-17A-6501 Barbers, salons, tattoo shops, 296-17A-6601 Crowd control services, and 296-17A-6708 Professional motor vehicle or watercraft race drivers.

Statutory Authority for Adoption: RCW 51.04.020 and 51.16.035.

Adopted under notice filed as WSR 20-15-138 on July 21, 2020.

Changes Other than Editing from Proposed to Adopted Version: We added "and posted to the L&I website" to the end of the amendments to WAC 296-17-35201 and 296-17-35204.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 29, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 29, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 6, 2020.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

WAC 296-17-31004 Coverage requirements. (1) I own a business. Am I required to have workers' compensation insurance coverage for my employees? Nearly every employer doing business in the state of Washington is required to have workers' compensation insurance for his/her employees. Washington law (*RCW 51.12.020*) does exempt certain types of employment from coverage. If you employ only individuals who are excluded from mandatory workers' compensation insurance coverage, you are not required to have workers' compensation insurance coverage.

(2) I hire contractors to perform work for me. Do I need to be concerned about premiums on their work? Yes. There are two ways you may be liable for premiums on the work they do.

First, they may be "workers" for whom you are required to report and pay premiums. The law defines worker to include both your employees and independent contractors you hire, when the essence of the contract is personal labor. See RCW 51.08.070, 51.08.180, 51.08.181, and 51.08.195 for more guidance about when independent contractors will be considered workers.

Second, the Industrial Insurance Act imposes premium liability on anyone who contracts with another to have work performed. Even if the contractor you hire is not your worker (for example, if the contractor uses one or more workers on

the job), you could be liable for their premiums if they fail to pay.

(3) Is there any way for me to protect myself from being held liable for premiums owed by construction contractors I hire? Yes, if you are a registered construction contractor or licensed electrical contractor, and you hire a registered construction contractor or a licensed electrical contractor to do construction work that requires licensing or registration, you can protect yourself from being found liable for the premiums on the work that contractor does for you if:

(a) They have a principal place of business eligible for IRS deduction;

(b) They keep books and records that reflect all items of income and all expenses of the business; and

(c) You have verified that they have an industrial insurance account in good standing, or are a self-insured employer approved by the department.

(4) What does "in good standing" mean? For someone's account to be in good standing, they must:

(a) Be registered with the department of labor and industries for industrial insurance coverage with the state fund;

(b) Have a certificate of coverage, also known as a liability certificate, that has not been revoked or canceled;

(c) Have submitted all reports and supplements required by the department within the past year; and

(d) Be current with all payments due to the state fund, or are current with an approved written payment agreement with the department regarding all unpaid amounts due the state fund.

(5) How do I know that someone's account is considered to be "in good standing"? You can find out whether someone's account is in good standing by visiting the department's website or calling your account manager. If the account is in good standing, ~~((we will give you a confirmation number you can keep as proof that you verified their status.))~~ the website will state "account is current."

(6) I use the same subcontractors over and over. Do I have to verify that they have an industrial insurance account in good standing every time I use them? No. In RCW 51.12.070 protection for construction contractors only requires that you have confirmed a subcontractor's account within a year prior to letting a contract. When you check out your subcontractors on the department's website or by calling your account manager, a confirmation number will be provided as proof you checked them out. This confirmation number is valid for one year from the time it is issued.

If you are notified by the department of labor and industries that a subcontractor's account is no longer in good standing, you may be liable for their industrial insurance premiums from the date of notification forward.

(7) Can I, as a construction contractor, be held liable if I verify that the accounts of construction contractors I hire are in good standing, but they fail to confirm the accounts of the construction subcontractors they hire? No. If you make sure you and your construction subcontractors meet the requirements of RCW 51.12.070, you cannot be held liable if they fail to make sure their construction subcontractors meet the requirements.

AMENDATORY SECTION (Amending WSR 19-11-109, filed 5/21/19, effective 7/1/19)

WAC 296-17-31006 Application process. (1) **Where can I buy workers' compensation insurance?** Washington law requires that you:

- Purchase your workers' compensation insurance through labor and industries. You will need to complete a *business license application* to obtain workers' compensation insurance from us; or

- Be certified as a self-insured employer by the self-insurance certification services section of the department of labor and industries. For more information on the self-insurance program go to www.lni.wa.gov/selfinsurance, additional resources and contact information are listed under "Contact Us."

Employers engaged exclusively in interstate or foreign commerce are permitted to purchase workers' compensation insurance from a private carrier in another state if they do business in that state. The workers' compensation laws of the other state must allow the Washington drivers to be covered in that state.

(2) Where can I get a business license application?

You can file and print a business license application online at (~~www.business.wa.gov/BLs~~) www.dor.wa.gov. You can pick up a paper business license application from:

- Any office of the department of labor and industries;
- Employment security;
- Department of revenue business licensing service office;
- The corporations division of the office of the secretary of state;
- For your convenience you can call us at 360-902-4817 and we will mail you one.

(3) Where do I send my completed business license application?

You can mail your completed business license application to the department of revenue address shown on the form, or you can return it to your local department of labor and industries office, or department of employment security district tax office. Be sure to include the appropriate fees indicated on the form.

AMENDATORY SECTION (Amending WSR 19-11-109, filed 5/21/19, effective 7/1/19)

WAC 296-17-31007 Owner/officer coverage and coverage for exempt employments. (1) **As a business owner, can I buy workers' compensation insurance to cover myself or to cover workers who are exempt from mandatory coverage as defined in RCW 51.12.020, 51.12.035, or 51.12.170?**

Yes. Coverage is not required, but is available for sole proprietors, partners, qualifying corporate officers, qualifying members of a limited liability company, and for exempt employments defined in **RCW 51.12.020, 51.12.035, or 51.12.170**. We refer to this coverage as optional coverage. For owner optional coverage, you must meet certain conditions and requirements which are detailed on the *application for owner/officer optional coverage*. These requirements include:

- Completing an application for optional owner/officer coverage;
- Reporting owner/officer hours in the classification assigned to your business that is applicable to the work being performed by the owner/officer;
- Submitting a supplemental report which lists the name of each covered owner/officer; and
- Reporting four hundred eighty hours or actual hours worked each quarter for each covered owner/officer and in the applicable workers' compensation classification code.

(2) When will my owner/officer coverage or coverage for exempt employments become effective?

Your coverage will become effective the day after we receive your completed and signed application for optional coverage, unless you indicate that optional coverage should begin at a later date. Coverage cannot begin before the day after we receive your completed application.

(3) How does cancellation work? You may cancel your optional owner/officer coverage or elective coverage for exempt employments by notifying the department in writing. For sole proprietors, partners, and LLC partnership model, we will cancel your coverage either the same day we receive your written notice to cancel or on the future date you indicate. For corporations, LLC corporate model, or elective coverage for exempt employment, we will cancel the coverage thirty days from the date we receive your written request to cancel.

The department may cancel optional coverage if any required payments have not been made. Cancellation will become effective no later than thirty days from the date of the cancellation notice the department sent to the employer.

When your account balance is paid, if you want to reestablish owner/officer coverage, you must **submit a new application** for owner/optional coverage.

(4) Where can I get an application for owner/officer coverage, or coverage for exempt employments? There are separate applications for owner/officer optional coverage and coverage for exempt employments. To get these applications, go to (<http://www.lni.wa.gov/FormPub>) www.lni.wa.gov, contact your local labor and industries office, or you can call the employer services division at 360-902-4817.

AMENDATORY SECTION (Amending WSR 12-24-067, filed 12/4/12, effective 1/4/13)

WAC 296-17-31021 Units of exposure. (1) What is a "unit of exposure"?

A unit of exposure is the measure which is used to help determine the premium you will pay. For most businesses the unit of exposure is the **hours** worked by their employees. Because not all employees are compensated based on the hours they work, we have developed reporting alternatives to make reporting to us easier. Those alternatives are outlined in subsection (2) of this section. In other cases, the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(2) What are the alternatives to actual hours worked?

The exceptions are:

- **Apartment house managers, caretakers, domestic, home care or similar employees:** To determine the number of hours you need to report to us, divide an employee's total compensation, including housing and utility allowances, by the average hourly wage for the classification. The total number of work hours to be reported for each employee is not to exceed 520 hours per quarter. You will need to call us at 360-902-4817 to obtain average hourly wage information.
- **Commission employees - Outside (such as, but not limited to, real estate and insurance sales):** You must select one of the following methods to report your commission employees - Outside:
 - Actual hours worked; or
 - Assumed hours of eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees.

All outside commission employees of an employer must be reported by the same method. You cannot report some outside commission employees based on the actual hours they work and others using the eight hours per day for part-time employees or one hundred-sixty hours per month for full-time employees method.
- **Drywall - Stocking, installation, scrapping, taping, and texturing:** Premiums are based on material installed/finished rather than the hours it took to install/finish the drywall.
- **Horse racing - Excluding jockeys:** Employers in the horse racing industry pay premiums on a monthly or daily rate on employees based on a type of license their employees hold rather than the hours the employees work. Premiums are collected by the Washington horse racing commission.
- **Jockeys:** Report ten hours for each race/mount or for any day in which duties are reported.
- **Pilots and flight crew members:** Pilots and flight crew members having flight duties during a work shift including preflight time shall have premium calculated by utilizing daily readings logged per federal requirements of the aircraft tachometer time: Provided, That if the total tachometer time for any day includes a fraction of an hour, the reportable time will be increased to the next full hour: Provided further, That pilots and flight crew members who assume nonflying duties during a work shift will have premium calculated in accordance with the appropriate rules and classifications applicable to nonflight duties.
- ~~(*) **Race car drivers:** Report ten hours for each race/heat.)~~
- **Salaried employees:** You must select one of the following methods to report your salaried employees:
 - Actual hours worked; or
 - Assumed hours of one hundred-sixty hours per month.

All salaried employees of an employer must be reported by the same method. You cannot report some salaried employees based on the actual hours they work and others using the one hundred sixty hours per month method. Provided further, as in the case of contract personnel employed by schools and/or school districts, the school or school district shall report actual hours worked for each employee, one hundred sixty hours per month for each employee, or the department *may* authorize some other method in assuming workers hours for premium calculation purposes.

(3) Can I use assumed work hours for piece workers?

No, if you employ piece workers you must report the actual hours these individuals work for you unless another unit of exposure is required.

Example: If you have employees engaged in drywall work you would report and pay premiums on the basis of the square footage of the material they installed not the hours they worked.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-31023 Premium reporting. How often will I need to report and pay premiums? Most employers will report and pay premiums once every three months. We refer to these three-month periods as quarters. For example, the months of January, February, and March represent the first quarter of a calendar year. In some cases employers report at more frequent intervals.

Example: Reforestation contractors report on a contract basis for any project over ten thousand dollars. Since contracts may last only a few days, reforestation contractors may file reports daily, weekly, and monthly.

If you do not have employees during a quarter, you must (~~return your premium~~) report by the due date and indicate "no payroll" or "no employees" (~~across the face of the report~~). If you do not submit reports when required, we will estimate premiums and initiate legal action against you to collect premiums due.

AMENDATORY SECTION (Amending WSR 16-18-085, filed 9/6/16, effective 10/7/16)

WAC 296-17-35201 Recordkeeping and retention. Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums due to the state for workers' compensation insurance for their covered workers. In the administration of Title 51 RCW, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums due to the state fund. The records so specified and required, shall be provided at the time of audit to any authorized representative of the department who has requested them.

Failure to produce the requested records within thirty days of the request, or within an agreed upon time period shall constitute prima facie evidence of noncompliance with this rule and shall invoke the statutory bar to challenge found in RCW 51.48.030 and/or 51.48.040. See WAC 296-17-925, 296-17-930, and 296-17-935 for additional reporting and

recordkeeping requirements for qualifying volunteers, student volunteers, and unpaid students.

(1) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which employment occurred:

- (a) The name of each worker;
- (b) The Social Security number of each worker;
- (c) The beginning date of employment for each worker and, if applicable, the separation date of employment of each such worker;
- (d) The basis upon which wages are paid to each worker;
- (e) The number of units earned or produced for each worker paid on a piecework basis;
- (f) The risk classification applicable to each worker whenever the worker hours of any one employee are being divided between two or more classifications;
- (g) The number of actual hours worked (WAC 296-17-31002) by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021 or 296-17-935;
- (h) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;
- (i) The workers' total gross pay period earnings;
- (j) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;
- (k) The net pay earned by each such worker.

(2) Business, financial records, and record retention. Every employer is required to keep and preserve all original employment time records for three full calendar years following the calendar year in which employment occurred. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve all check registers and bank statements. Employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(3) Recordkeeping - Estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in subsections (1) and (2) of this section, who fails to make, keep, and preserve such records, shall for the purpose of premium calculation assume worker hours using the average hourly wage rate for each classification, and also will be subject to penalties prescribed in subsection (4) of this section. The records compiled by the department shall be the basis for determining the average hourly wage rate: Provided, That the average hourly wage rate shall be no less than the state minimum wage existing at the time such assumed hours are worked. Notwithstanding any other provisions of this section, workers employed in a work activity center subject to Classification 7309 shall be reported on the basis of the average hourly wage.

(4) Failure to maintain records - Penalties. Any employer required by this section to make, keep, and preserve records containing the information as specified in subsections (1) and

(2) of this section, who fails to make, keep, and preserve such record, shall be liable, subject to RCW 51.48.030, to a penalty ~~((in the amount of two hundred fifty))~~ not to exceed five hundred dollars or two hundred percent of the quarterly tax for each such offense, whichever is greater. Beginning July 1, 2023, this penalty will be adjusted for inflation every three years based on the consumer price index (Seattle, Washington area for urban wage earners and clerical workers, all items compiled by the Bureau of Labor Statistics of the United States Department of Labor) and posted to the L&I website. Failure to make, keep, and preserve records containing the information as specified in subsections (1) and (2) of this section, for a single employee shall constitute one offense, for two employees two offenses, and so forth. The department may waive penalties for the first-time or de minimis violations of this section. Any penalty that is waived under this section may be reinstated and imposed in addition to any additional penalties associated with a subsequent violation or failure within a year to correct the previous violation as required by the department.

AMENDATORY SECTION (Amending WSR 15-19-081, filed 9/15/15, effective 10/16/15)

WAC 296-17-35203 Special reporting instruction. (1) Professional and semiprofessional athletic teams. Athletes assigned and under contract to a Washington-domiciled sports team are mandatorily covered by Washington industrial insurance. Athletes assigned to a Washington-domiciled sports team but under contract with a parent team domiciled outside of the state are mandatorily covered by Washington industrial insurance unless the player is eligible for coverage in another state, and there is a valid coverage agreement as described below.

A player is eligible for coverage in another state only when both the player and the employer agree in writing that the employment is principally localized in that state.

Example: If the Washington-based team is a part of a league with teams in only Washington, Oregon, and Idaho, the player and the employer can agree to any of those three states to provide coverage. However, they cannot agree to be under California coverage since California doesn't qualify as a state in which the player competes in regularly scheduled games.

(a) Upon request, the department will provide forms to the owners of professional and semiprofessional sports teams for entering into agreements for both the sport player and the sport team. These agreements are referred to as "coverage agreements." Unless coverage is refused in the alternative state, the coverage agreement will determine the worker's home state for workers' compensation coverage.

(b) When a sport team and a player agree to workers' compensation coverage in another state, the following rules apply:

Sport player coverage agreement:

(i) A sport player coverage agreement must be signed by the team (employer) and each individual player (worker) covered out-of-state. Workers' compensation premiums for any work performed by the player before the agreement was

signed must be paid to the department. To be valid, an agreement must be:

- Signed by both parties, dated, and show the name of the state where coverage is provided.
- Agree that the player's employment is principally located in that state.
- Kept as part of the employer's records for at least three years after the player is released from the team.

(ii) The employer must provide the department a copy of a sport player coverage agreement when requested. Employers who do not provide the department copies of a sport player coverage agreement when requested are considered not to have secured payment of compensation as required and all premiums and penalties allowed for in Title 51 RCW will apply.

(iii) If the employers' out-of-state workers' compensation insurer rejects an injury claim because the player is a Washington worker, the employer is considered not to have secured payment of compensation as required and all premium and penalties allowed for in Title 51 RCW apply.

Sport team coverage agreement:

(c) A sport team coverage agreement must be signed by the employer (team) and the qualifying out-of-state workers' compensation insurer. Workers' compensation premiums for work performed before the agreement was signed must be paid to the department. To be valid, an agreement must:

- Be signed by both parties, dated, and show the name of the state where coverage is provided.
- Specify that the team's players are principally localized in that state.
- Specify the insurer agreeing to provide coverage for a team based in Washington.

(d) The sport team coverage agreement must be signed annually. Copies of the agreement along with a current copy of the team's out-of-state insurance policy must be submitted to the department of labor and industries every year the out-of-state coverage is provided.

Premium payments are required for any work performed by Washington players prior to the date the department receives copies of any year's current sports teams' coverage agreement and proof of out-of-state coverage.

(2) **Excluded employments.** Any employer having any person in their employ excluded from industrial insurance whose application for coverage under the elective adoption provisions of RCW 51.12.110 or authority of RCW 51.12.-095 or 51.32.030 has been accepted by the director shall report and pay premium on the actual hours worked for each such person who is paid on an hourly, salaried, part time, percentage of profit or piece basis; or one hundred sixty hours per month for any such person paid on a salary basis employed full time. In the event records disclosing actual hours worked are not maintained by the employer for any person paid on an hourly, salaried, part time, percentage of profits or piece basis, the worker hours of such person shall be determined by dividing the gross wages of such person by the state minimum wage for the purpose of premium calculation. However, when applying the state minimum wage the maximum number of hours assessed for a month will be one hundred sixty.

(3) **Special trucking industry rules.** The following subsection shall apply to all trucking industry employers as applicable.

(a) Insurance liability. Every trucking industry employer operating as an intrastate carrier or a combined intrastate and interstate carrier must insure their workers' compensation insurance liability through the Washington state fund or be self-insured with the state of Washington.

Washington employers operating exclusively in interstate or foreign commerce or any combination of interstate and foreign commerce must insure their workers' compensation insurance liability for their Washington employees with the Washington state fund, be self-insured with the state of Washington, or provide workers' compensation insurance for their Washington employees under the laws of another state when such other state law provides for such coverage.

Interstate or foreign commerce trucking employers who insure their workers' compensation insurance liability under the laws of another state must provide the department with copies of their current policy and applicable endorsements upon request.

Employers who elect to insure their workers' compensation insurance liability under the laws of another state and who fail to provide updated policy information when requested to do so will be declared an unregistered employer and subject to all the penalties contained in Title 51 RCW.

(b) Reporting. Trucking industry employers insuring their workers' compensation insurance liability with the Washington state fund shall keep and preserve all original time records/books including supporting information from drivers' logs for a period of three calendar years plus three months.

Employers are to report actual hours worked, including time spent loading and unloading trucks, for each driver in their employ. For purposes of this section, actual hours worked does not include time spent during lunch or rest periods or overnight lodging.

Failure of employers to keep accurate records of actual hours worked by their employees will result in the department estimating work hours by dividing gross payroll wages by the state minimum wage for each worker for whom records were not kept. However, in no case will the estimated or actual hours to be reported exceed five hundred twenty hours per calendar quarter for each worker.

(c) Exclusions. Trucking industry employers meeting all of the following conditions are exempted from mandatory coverage.

(i) Must be engaged exclusively in interstate or foreign commerce.

(ii) Must have elected to cover their Washington workers on a voluntary basis under the Washington state fund and must have elected such coverage in writing on forms provided by the department.

(iii) After having elected coverage, withdrew such coverage in writing to the department on or before January 2, 1987.

If all the conditions set forth in (i), (ii), and (iii) of this subsection have not been met, employers must insure their workers' compensation insurance liability with the Washington state fund or under the laws of another state.

(d) Definitions. For purposes of interpretation of RCW 51.12.095(1) and administration of this section, the following terms shall have the meanings given below:

(i) "Agents" means individuals hired to perform services for the interstate or foreign commerce carrier that are intended to be carried out by the individual and not contracted out to others but does not include owner operators as defined in RCW 51.12.095(1).

(ii) "Contacts" means locations at which freight, merchandise, or goods are picked up or dropped off within the boundaries of this state.

(iii) "Doing business" means having any terminals, agents or contacts within the boundaries of this state.

(iv) "Employees" means the same as the term "worker" as contained in RCW 51.08.180.

(v) "Terminals" means a physical location wherein the business activities (operations) of the trucking company are conducted on a routine basis. Terminals will generally include loading or shipping docks, warehouse space, dispatch offices and may also include administrative offices.

(vi) "Washington" shall be used to limit the scope of the term "employees." When used with the term "employees" it will require the following test for benefit purposes (all conditions must be met).

- The individual must be hired in Washington or must have been transferred to Washington; and

- The individual must perform some work in Washington (i.e., driving, loading, or unloading trucks).

(4) **Forest, range, or timber land services—Industry rule.** Washington law (RCW 51.48.030) requires every employer to make, keep, and preserve records which are adequate to facilitate the determination of premiums due to the state for workers' compensation insurance coverage for their covered workers. In the administration of Title 51 RCW, and as it pertains to the forest, range, or timber land services industry, the department of labor and industries has deemed the records and information required in the various subsections of this section to be essential in the determination of premiums due to the state fund. The records so specified and required, shall be provided at the time of audit to any representative of the department who has requested them.

Failure to produce these required records within thirty days of the request, or within an agreed upon time period, shall constitute noncompliance of this rule and RCW 51.48.030 and 51.48.040. Employers whose premium computations are made by the department in accordance with (d) of this subsection are barred from questioning, in an appeal before the board of industrial insurance appeals or the courts, the correctness of any assessment by the department on any period for which such records have not been kept, preserved, or produced for inspection as provided by law.

(a) General definitions. For purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Actual hours worked" means each workers' composite work period beginning with the starting time of day that the employees' work day commenced, and includes the entire work period, excluding any nonpaid lunch period, and ending with the quitting time each day work was performed by the employee.

(ii) "Work day" shall mean any consecutive twenty-four-hour period.

(b) Employment records. Every employer shall with respect to each worker, make, keep, and preserve original records containing all of the following information for three full calendar years following the calendar year in which the employment occurred:

- (i) The name of each worker;
- (ii) The Social Security number of each worker;
- (iii) The beginning date of employment for each worker and, if applicable, the separation date of employment for each such worker;
- (iv) The basis upon which wages are paid to each worker;
- (v) The number of units earned or produced for each worker paid on a piece-work basis;
- (vi) The risk classification(s) applicable to each worker;
- (vii) The number of actual hours worked by each worker, unless another basis of computing hours worked is prescribed in WAC 296-17-31021. For purposes of chapter 296-17 WAC, this record must clearly show, by work day, the time of day the employee commenced work, and the time of day work ended;
- (viii) A summary time record for each worker showing the calendar day or days of the week work was performed and the actual number of hours worked each work day;
- (ix) In the event a single worker's time is divided between two or more risk classifications, the summary contained in (b)(viii) of this subsection shall be further broken down to show the actual hours worked in each risk classification for the worker;
- (x) The workers' total gross pay period earnings;
- (xi) The specific sums withheld from the earnings of each worker, and the purpose of each sum withheld;
- (xii) The net pay earned by each such worker.

(c) Business, financial records, and record retention. Every employer is required to keep and preserve all original time records completed by their employees for a three-year period. The three-year period is specified in WAC 296-17-352 as the composite period from the date any such premium became due.

Employers who pay their workers by check are required to keep and preserve a record of all check registers and canceled checks; and employers who pay their workers by cash are required to keep and preserve records of these cash transactions which provide a detailed record of wages paid to each worker.

(d) Recordkeeping - Estimated premium computation. Any employer required by this section to make, keep, and preserve records containing the information as specified in (b) and (c) of this subsection, who fails to make, keep, and preserve such records, shall have premiums calculated as follows:

(i) Estimated worker hours shall be computed by dividing the gross wages of each worker for whom records were not maintained and preserved, by the state's minimum wage, in effect at the time the wages were paid or would have been paid. However, the maximum number of hours to be assessed under this provision will not exceed five hundred twenty hours for each worker, per quarter for the first audited period.

Estimated worker hours computed on all subsequent audits of the same employer that disclose a continued failure to make, keep, or preserve the required payroll and employment records shall be subject to a maximum of seven hundred eighty hours for each worker, per quarter.

(ii) In the event an employer also has failed to make, keep, and preserve the records containing payroll information and wages paid to each worker, estimated average wages for each worker for whom a payroll and wage record was not maintained will be determined as follows: The employer's total gross income for the audit period (earned, received, or anticipated) shall be reduced by thirty-five percent to arrive at "total estimated wages." Total estimated wages will then be divided by the number of employees for whom a record of actual hours worked was not made, kept, or preserved to arrive at an "estimated average wage" per worker. Estimated hours for each worker will then be computed by dividing the estimated average wage by the state's minimum wage in effect at the time the wages were paid or would have been paid as described in (d)(i) of this subsection.

(e) Reporting requirements and premium payments.

(i) Every employer who is awarded a forest, range, or timber land services contract must report the contract to the department promptly when it is awarded, and prior to any work being commenced, except as provided in (e)(iii) of this subsection. Employers reporting under the provisions of (e)(iii) of this subsection shall submit the informational report with their quarterly report of premium. The report shall include the following information:

(A) The employers' unified business identification account number (UBI).

(B) Identification of the landowner, firm, or primary contractor who awarded the contract, including the name, address, and phone number of a contact person.

(C) The total contract award.

(D) Description of the forest, range, or timber land services work to be performed under terms of the contract.

(E) Physical location/site where the work will be performed including legal description.

(F) Number of acres covered by the contract.

(G) Dates during which the work will be performed.

(H) Estimated payroll and hours to be worked by employees in performance of the contract.

(ii) Upon completion of every contract issued by a landowner or firm that exceeds a total of ten thousand dollars, the contractor primarily responsible for the overall project shall, in addition to the required informational report described in (e)(i) of this subsection, report the payroll and hours worked under the contract, and submit payment for required industrial insurance premiums. In the event that the contracted work is not completed within a calendar quarter, interim quarterly reports and premium payments are required for each contract for all work done during the calendar quarter. The first such report and payment is due at the end of the first calendar quarter in which the contract work is begun. Additional interim reports and payments will be submitted each quarter thereafter until the contract is completed. This will be consistent with the quarterly reporting cycle used by other employers. Premiums for a calendar quarter, whether reported or not, shall become due and delinquent on the day

immediately following the last day of the month following the calendar quarter.

(iii) A contractor may group contracts issued by a landowner, firm, or other contractor that total less than ten thousand dollars together and submit a combined quarterly report of hours, payroll, and the required premium payment in the same manner and periods as nonforestation, range, or timber land services employers.

(f) Out-of-state employers. Forest, range, or timber land services contractors domiciled outside of Washington state must report on a contract basis regardless of contract size for all forest, range, or timber land services work done in Washington state. Out-of-state employers will not be permitted to have an active Washington state industrial insurance account for reporting forest, range, or timber land services work in the absence of an active Washington forest, range, or timber land services contract.

(g) Work done by subcontract. Any firm primarily responsible for work to be performed under the terms of a forest, range, or timber land services contract, that subcontracts out any work under a forest, range, or timber land services contract must send written notification to the department prior to any work being done by the subcontractor. This notification must include the name, address, Social Security number, farm labor contractor number, (UBI) of each subcontractor, and the amount and description of contract work to be done by subcontract.

(h) Forest, range, or timber land services contract release - Verification of hours, payroll, and premium. The department may verify reporting of contractors by way of an on-site visit to an employer's work site. This on-site visit may include close monitoring of employees and employee work hours. Upon receipt of a premium report for a finished contract, the department may conduct an audit of the firm's payroll, employment, and financial records to validate reporting. The entity that awarded the contract can verify the status of the contractors' accounts online at the department's website (www.lni.wa.gov) or by calling the account manager. The landowner, firm, or contractor will not be released from premium liability until the final report for the contract from the primary contractor and any subcontractors has been received and verified by the department.

(i) Premium liability - Work done by contract. Washington law (RCW 51.12.070) places the responsibility for industrial insurance premium payments primarily and directly upon the person, firm, or corporation who lets a contract for all covered employment involved in the fulfillment of the contract terms. Any such person, firm, or corporation letting a contract is authorized to collect from the contractor the full amount payable in premiums. The contractor is in turn authorized to collect premiums from any subcontractor they may employ his or her proportionate amount of the premium payment.

To eliminate premium liability for work done by contract permitted by Title 51 RCW, any person, firm, or corporation who lets a contract for forest, range, or timber land services work must submit a copy of the contract they have let to the department and verify that all premiums due under the contract have been paid.

Each contract submitted to the department must include within its body, or on a separate addendum, all of the following items:

- (i) The name of the contractor who has been engaged to perform the work;
- (ii) The contractor's UBI number;
- (iii) The contractor's farm labor contractor number;
- (iv) The total contract award;
- (v) The date the work is to be commenced; a description of the work to be performed including any pertinent acreage information;
- (vi) Location where the work is to be performed;
- (vii) A contact name and phone number of the person, firm, or corporation who let the contract;
- (viii) The total estimated wages to be paid by the contractor and any subcontractors;
- (ix) The amount to be subcontracted out if such subcontracting is permitted under the terms of the contract;
- (x) The total estimated number of worker hours anticipated by the contractor and his/her subcontractors in the fulfillment of the contract terms;
- (j) Reports to be mailed to the department. All contracts, reports, and information required by this section are to be sent to:

The Department of Labor and Industries
Reforestation Team 8
P.O. Box 44168
Olympia, Washington 98504-4168

(k) Rule applicability. If any portion of this section is declared invalid, only that portion is repealed. The balance of the section shall remain in effect.

(5) Logging and/or tree thinning—Mechanized operations—Industry rule. The following subsection shall apply to all employers assigned to report worker hours in risk classification 5005, WAC 296-17A-5005.

(a) Every employer having operations subject to risk classification 5005 "logging and/or tree thinning - Mechanized operations" shall have their operations surveyed by labor and industries insurance services staff prior to the assignment of risk classification 5005 to their account. Annual surveys may be required after the initial survey to retain the risk classification assignment.

(b) Every employer assigned to report exposure (work hours) in risk classification 5005 shall supply an addendum report with their quarterly premium report which lists the name of each employee reported under this classification during the quarter, the Social Security number of such worker, the piece or pieces of equipment the employee operated during the quarter, the number of hours worked by the employee during the quarter, and the wages earned by the employee during the quarter.

(6) Special drywall industry rule.

(a) **What is the unit of exposure for drywall reporting?** Your premiums for workers installing and finishing drywall (reportable in risk classifications 0540, 0541, 0550, and 0551) are based on the amount of material installed and finished, not the number of hours worked.

The amount of material installed equals the amount of material purchased or taken from inventory for a job. No

deduction can be made for material scrapped (debris). A deduction is allowed for material returned to the supplier or inventory.

The amount of material finished for a job equals the amount of material installed. No deduction can be made for a portion of the job that is not finished (base layer of double-board application or unfinished rooms).

Example: Drywall installation firm purchases 96 4' x 8' sheets of material for a job which includes some double-wall installation. The firm hangs all or parts of 92 sheets, and returns 4 sheets to the supplier for credit. Drywall finishing firm tapes, primes and textures the same job. Both firms should report 2,944 square feet (4 x 8 x 92) for the job.

(b) I do some of the work myself. Can I deduct material I as an owner install or finish? Yes. Owners (sole proprietors, partners, and corporate officers) who have not elected coverage may deduct material they install or finish.

When you as an owner install (including scrap) or finish (including tape and prime or texture) only part of a job, you may deduct an amount of material proportional to the time you worked on the job, considering the total time you and your workers spent on the job.

To deduct material installed or finished by owners, you must report to the department by job, project, site or location the amount of material you are deducting for this reason. You must file this report at the same time you file your quarterly report:

$$\text{Total owner hours} \div (\text{owner hours} + \text{worker hours}) = \% \text{ of owner discount.}$$

$$\% \text{ of owner discount} \times (\text{total footage of job} - \text{subcontracted footage, if any}) = \text{Total owner deduction of footage.}$$

(c) Can I deduct material installed or finished by subcontractors? You may deduct material installed or taped by subcontractors you are not required to report as your workers. You may not deduct for material only scrapped or primed and textured by subcontractors.

To deduct material installed or taped by subcontractors, you must report to the department by job, project, site or location the amount of material being deducted. You must file this report at the same time you file your quarterly report. You must have and maintain business records that support the number of square feet worked by the subcontractor.

(d) I understand there are discounted rates available for the drywall industry. How do I qualify for them? To qualify for discounted drywall installation and finishing rates, you must:

(i) Have an owner attend two workshops the department offers (one workshop covers claims and risk management, the other covers premium reporting and recordkeeping);

(ii) Provide the department with a voluntary release authorizing the department to contact material suppliers directly about the firm's purchases;

(iii) Have and keep all your industrial insurance accounts in good standing (including the accounts of other businesses in which you have an ownership interest), which includes fully and accurately reporting and paying premiums as they come due, including reporting material deducted as owner or subcontractor work;

(iv) Provide the department with a supplemental report (filed with the firm's quarterly report) showing by employee the employee's name, Social Security number, the wages paid them during the quarter, how they are paid (piece rate, hourly, etc.), their rate of pay, and what work they performed (installation, scrapping, taping, priming/texturing); and

(v) Maintain accurate records about work you subcontracted to others and materials provided to subcontractors (as required by WAC 296-17-31013), and about payroll and employment (as required by WAC 296-17-35201).

The discounted rates will be in effect beginning with the first quarter your business meets all the requirements for the discounted rates.

Note: If you are being audited by the department while your application for the discounted classifications is pending, the department will not make a final decision regarding your rates until the audit is completed.

(e) Can I be disqualified from using the discounted rates? Yes. You can be disqualified from using the discounted rates for three years if you:

(i) Do not file all reports, including supplemental reports, when due;

(ii) Do not pay premiums on time;

(iii) Underreport the amount of premium due; or

(iv) Fail to maintain the requirements for qualifying for the discounted rates.

Disqualification takes effect when a criterion for disqualification exists.

Example: A field audit in 2002 reveals that the drywall installation firm underreported the amount of premium due in the second quarter of 2001. The firm will be disqualified from the discounted rates beginning with the second quarter of 2001, and the premiums it owed for that quarter and subsequent quarters for three years will be calculated using the nondiscounted rates.

If the drywall underwriter learns that your business has failed to meet the conditions as required in this rule, your business will need to comply to retain using the discounted classifications. If your business does not comply promptly, the drywall underwriter may refer your business for an audit.

If, as a result of an audit, the department determines your business has not complied with the conditions in this rule, your business will be disqualified from using the discounted classifications for three years (thirty-six months) from the period of last noncompliance.

(f) If I discover I have made an error in reporting or paying premium, what should I do? If you discover you have made a mistake in reporting or paying premium, you should contact the department and correct the mistake. Firms not being audited by the department that find errors in their reporting and paying premiums, and that voluntarily report their errors and pay any required premiums, penalties and interest promptly, will not be disqualified from using the discounted rates unless the department determines they acted in bad faith.

(7) Safe patient handling rule. The following subsection will apply to all hospital industry employers as applicable.

(a) Definitions. For the purpose of interpretation of this section, the following terms shall have the meanings given below:

(i) "Hospital" means an "acute care hospital" as defined in (a)(ii) of this subsection, a "mental health hospital" as defined in (a)(iii) of this subsection, or a "hospital, N.O.C. (not otherwise classified)" as defined in (a)(iv) of this subsection.

(ii) "Acute care hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of twenty-four hours or more for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this rule does not include:

- Hotels, or similar places furnishing only food and lodging, or simply domiciliary care;
- Clinics, or physicians' offices where patients are not regularly kept as bed patients for twenty-four hours or more;
- Nursing homes, as defined and which come within the scope of chapter 18.51 RCW;
- Birthing centers, which come within the scope of chapter 18.46 RCW;
- Psychiatric or alcoholism hospitals, which come within the scope of chapter 71.12 RCW;
- Any other hospital or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, mental retardation, convulsive disorders, or other abnormal mental conditions.

Furthermore, nothing in this chapter will be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denominations.

(iii) "Mental health hospital" means any hospital operated and maintained by the state of Washington for the care of the mentally ill.

(iv) "Hospitals, N.O.C." means health care facilities that do not qualify as acute care or mental health hospitals and may be privately owned facilities established for purposes such as, but not limited to, treating psychiatric disorders and chemical dependencies or providing physical rehabilitation.

(v) "Safe patient handling" means the use of engineering controls, lifting and transfer aids, or assistance devices, by lift teams or other staff, instead of manual lifting to perform the acts of lifting, transferring and repositioning health care patients.

(vi) "Lift team" means hospital employees specially trained to conduct patient lifts, transfers, and repositioning using lifting equipment when appropriate.

(vii) "Department" means the department of labor and industries.

(b) Hospitals will report worker hours in the risk classification that describes the nature of their operations and either their level of implementation of, or need for, the safe patient handling program.

(c) A fully implemented safe patient handling program must include:

(i) Acquisition of at least the minimum number of lifts and/or appropriate equipment for use by lift teams as specified in chapters 70.41 and 72.23 RCW.

(ii) An established safe patient handling committee with at least one-half of its membership being front line, nonmanagerial direct care staff to design and recommend the process for implementing a safe patient handling program.

(iii) Implementation of a safe patient handling policy for all shifts and units.

(iv) Conducting patient handling hazard assessments to include such variables as patient-handling tasks, types of nursing units, patient populations, and the physical environment of patient care areas.

(v) Developing a process to identify appropriate use of safe patient handling policy based on a patient's condition and availability of lifting equipment or lift teams.

(vi) Conducting an annual performance evaluation of the program to determine its effectiveness with results reported to the safe patient handling committee.

(vii) Consideration, when appropriate, to incorporate patient handling equipment or the physical space and construction design needed to incorporate that equipment at a later date during new construction or remodeling.

(viii) Development of procedures that allow employees to choose not to perform or participate in patient handling activities that the employee believes will pose a risk to him/herself or to the patient.

(d) Department staff will conduct an on-site survey of each acute care and mental health hospital before assigning a risk classification. Subsequent surveys may be conducted to confirm whether the assigned risk classification is still appropriate.

(e) To remain in classification 6120-00 or 7200-00, a hospital must submit a copy of the annual performance evaluation of their safe patient handling program, as required by chapters 70.41 and 72.23 RCW, to the Employer Services Program, Department of Labor and Industries, P.O. Box 44140, Olympia, Washington, 98504.

(8) Rules concerning work by Washington employers outside the state of Washington (extraterritorial coverage).

(a) **General definitions.** For purposes of this section, the following terms mean:

(i) "Actual hours worked" means the total hours of each Washington worker's composite work period during which work was performed by the worker beginning with the time the worker's work day commenced, and ending with the quitting time each day excluding any nonpaid lunch period.

(ii) "Work day" means any consecutive twenty-four-hour period.

(iii) "Temporary and incidental" means work performed by Washington employers on jobs or at job sites in another state for thirty or fewer consecutive or nonconsecutive full or partial work days within a calendar year. Temporary and incidental work days are calculated on a per state basis. The thirty-day temporary and incidental period begins on January 1 of each year.

(iv) "Proof of out-of-state coverage" means a copy of a valid certificate of liability insurance for workers' compensation issued by:

(A) An insurer licensed to write workers' compensation insurance coverage in that state; or

(B) A state workers' compensation fund in the state in which the employer will be working.

Note: Most certificates are written for a one-year period. The employer must provide the department with a current certificate of liability insurance for workers' compensation covering all periods the employer works in another state. If the policy is canceled, the employer must provide the department with a current in-force policy.

(v) "Worker" means every person in this state who is engaged in the employment of an employer under Title 51 RCW whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer whether by way of manual labor or otherwise.

(vi) "Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of Title 51 RCW, by way of trade or business, or who contracts with one or more workers, the essence of which is the personal labor of such worker or workers.

(b) Does a Washington employer have to pay premiums in both states while Washington workers are temporarily working in another state? A Washington employer must continue to pay Washington premiums for Washington workers performing temporary and incidental work in another state. If the Washington employer has Washington workers who work for more than thirty days in another state, that employer will not need to pay premiums in Washington for work in the other state during the calendar year, as long as that employer fulfills the following requirements:

(i) Provides the department with proof of out-of-state coverage for the Washington workers working out-of-state.

(ii) Keeps the policy continuously in force from the date the Washington employer's work exceeds the temporary and incidental period until the date the Washington employer no longer has Washington workers working in the other state. Failure to maintain a policy at the required level of workers' compensation coverage for the number of Washington workers working out-of-state may subject the Washington employer to payment of all premiums, penalties, and interest dues in the state of Washington.

(iii) For the first quarterly reporting period and all subsequent quarters during the same calendar year following the date the Washington employer's work exceeds the temporary and incidental period in the other state, the Washington employer must file a supplemental report of out-of-state work with their workers' compensation employer's quarterly report with the department. This supplemental report is available at (<http://www.LNI.wa.gov/ClaimsIns/Insurance/File/ExtraTerritorial/Default.asp>) www.lni.wa.gov/OutofState.

(iv) Subitems (b)(i), (ii), and (iii) of this subsection must be met in each state in which the Washington employer has Washington workers working in excess of the temporary and incidental period.

Note: Workers' compensation coverage requirements vary widely among states. Washington employers should contact the regulatory agency in other states to determine the appropriate premium and coverage obligations in those states.

(c) What if a Washington employer knows the Washington workers' work in another state will exceed the temporary and incidental period? If the Washington employer knows their Washington workers will be working in another state in excess of the temporary and incidental period, the employer must immediately provide the department with proof of out-of-state coverage in order to avoid Washington premium liability for hours worked during the temporary and incidental period.

Reminder: The temporary and incidental period applies separately to each state in which the Washington employer worked.

(d) What if a Washington employer anticipates its out-of-state work will exceed the temporary and incidental period, but that does not occur? If a Washington employer did not pay workers' compensation premium to Washington during the temporary and incidental period, and at the end of the calendar year Washington workers of the Washington employer had worked fewer than thirty consecutive or nonconsecutive days in another state, by the filing of the fourth quarter report, the Washington employer must file amended reports for the calendar year. The employer may be required to pay Washington premiums, penalties, and interest. The fourth quarter report is due by January 31 of the following year.

(e) What records must the employer keep while employing Washington workers in another state? In addition to filing the supplemental report of out-of-state work, the Washington employer is required to keep the same records that are kept for Washington workers working in Washington. The records are listed in WAC 296-17-35201 and must be provided at the time of audit to any authorized representative of the department who has requested them.

(f) What reports does a Washington employer file to avoid paying Washington workers' compensation premiums when employing Washington workers in another state for work that exceeds temporary and incidental? A Washington employer must submit the workers' compensation employer's quarterly report and a supplemental report of out-of-state work to the department for each state in which that employer has Washington workers performing work. The supplemental report must include the following information:

(i) The Washington employer's unified business identification number (UBI).

(ii) The Washington employer's department account identification number.

(iii) The Social Security numbers for those Washington worker(s) performing work out-of-state.

(iv) The last name, first name, and middle initial of those Washington worker(s) performing work out-of-state.

(v) The gross payroll paid during the quarter for those Washington worker(s) performing work out-of-state.

(vi) The Washington workers' compensation risk classification(s) that would have applied for each Washington worker performing work out-of-state.

(vii) The total number of hours that each Washington worker performed work out-of-state during the quarter.

(viii) In addition to completing the supplemental report of out-of-state work, the Washington employer must keep a record of all contracts awarded and worked under each state. Copies of pertinent records must be made available to auditors in the event of an audit.

(g) Where do Washington workers file their workers' compensation claims if injured in the course of employment outside of Washington state? Washington workers may file their claim in the state where they were injured or in Washington state.

Washington employers must inform their Washington workers of their right to file for workers' compensation benefits in Washington or the state of injury.

The cost of these claims, if accepted by the department and assigned to the Washington employer's account, will be used in the calculations that determine the employer's experience factor and the appropriate risk classification base rate.

(h) If the Washington employer's work in another state exceeds the temporary and incidental period, may the Washington employer obtain a credit or refund for the temporary and incidental period that workers' compensation premiums were paid to Washington? Yes, but only if the Washington employer:

(i) Obtained workers' compensation insurance for all hours worked in the other state during the calendar year;

(ii) Provides proof of out-of-state coverage;

(iii) Filed the appropriate quarterly reports with the department when due; and

(iv) Otherwise complied with all statutory and regulatory requirements of Washington state.

(9) Horse racing industry rules. These rules apply to persons licensed by the Washington horse racing commission (WHRC) and governed by WAC 260-36-250.

(a) Who is responsible for paying industrial insurance premiums?

(i) The trainer will be responsible to pay the industrial insurance premiums owed. Premiums will be paid to the WHRC monthly, at the end of the coverage month or before the trainer leaves the track taking his/her horses when leaving before the end of the coverage month. WHRC will submit premiums to the department of labor and industries on a quarterly basis. The employee must be properly licensed by the WHRC for the duties being performed. This includes all exercise riders and pony riders who need steward approval of their license application, whether at the track or at the farm.

(ii) Licensed trainers shall be assessed:

(A) One unit of premiums in classification 6625 for each licensed groom or assistant trainer employed at any one time;

(B) One unit of premiums in classification 6626 for licensed exercise riders and pony riders charged per stall for each day the trainer has a horse housed in a stall at a licensed track during a licensed meet; and

(C) One unit of premiums in classification 6627 for licensed exercise riders and pony riders for each calendar day a licensed exercise rider or pony rider works under contract for the trainer at a location other than at a licensed track during a licensed meet.

(b) What does the trainer do when an employee leaves the job? Trainers must notify the WHRC within forty-eight hours when any employee leaves their employ. If a trainer fails to notify the WHRC timely, the trainer will be responsible for the full premium payment until notification is made.

(c) When are track employees covered under horse racing classifications?

(i) Track employees are only covered on the grounds of a Washington race track during its licensed race meet and periods of training. The licensed race meet and periods of training apply to that period of time when the WHRC has authority on the grounds, including the period before the live race meet begins, when horses are exercised in preparation for competition, and through the end of the licensed race meet.

(ii) Covered track employees who are licensed exercise riders or pony riders may work off the grounds of a Washington race track, but only after obtaining a farm employee license. The trainer must notify the WHRC when the employee will be working off the grounds, so that the additional per-day farm employee premium can be calculated and assessed to the trainer for each day the track employee works off the grounds.

(iii) Employees working on the grounds of a Washington race track prior to or after this period must be covered as farm employees (classification 6627) to be able to make a claim against the horse racing industry account, or the trainer can cover such employees under another account (classification 7302).

(d) Who can be covered under the farm employee classification (6627)?

(i) Licensed exercise riders and pony riders working at the farm must be assigned to a trainer and not the farm. Such employees cannot be assigned to the owner of the farm or training center unless the owner is licensed as a trainer.

(ii) Covered farm employees who are licensed exercise riders or pony riders may come to the Washington race track to assist the trainer during the live race meet and periods of training. As long as a farm employee is covered at the farm, and the trainer notifies the WHRC when the employee will be working at the track, the farm employee may work at the track without additional premium being owed.

(e) Are employees covered while working in another state?

(i) Trainers with employees from Washington may continue coverage when they are at another recognized race track in another state if the other jurisdiction has a reciprocal agreement with the state of Washington. The trainer must pay the premiums for grooms and assistant trainers in classification 6625, and for exercise riders and pony riders at the farm in the farm classification, 6627. For a list of states with reciprocal agreements with the state of Washington, see WAC 296-17-31009.

(ii) Trainers will need to continue to report Washington employees to the WHRC prior to the start of each month so an assessment can be made.

(iii) Failure to report, or to report correctly, may result in the trainer being referred to the stewards or the executive secretary of the WHRC for action.

(iv) 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.

(f) **Must horse owners pay industrial insurance premiums in Washington?** Licensed owners shall be assessed one hundred fifty dollars per year for one hundred percent ownership of one or more horses. Partial owners shall be assessed prorated amounts of the one hundred fifty dollar fee. In no event shall a licensed owner be required to pay more than one hundred fifty dollars. This fee helps fund workers' compensation coverage for injured workers. It does not extend any coverage to owners.

AMENDATORY SECTION (Amending WSR 98-18-042, filed 8/28/98, effective 10/1/98)

WAC 296-17-35204 Penalty assessments for employers who fail to register under Title 51 RCW. (1) Any employer who has failed to secure payment of compensation for their workers covered under this title will be liable, subject to RCW 51.48.010, to a maximum penalty in a sum of ~~((five hundred))~~ one thousand dollars or in a sum double the amount of premiums due for the four quarters prior to securing payment of compensation under this title, whichever is greater, for the benefit of the medical aid fund. Beginning July 1, 2023, this penalty will be adjusted for inflation every three years based on the consumer price index (Seattle, Washington area for urban wage earners and clerical workers, all items compiled by the Bureau of Labor Statistics of the United States Department of Labor) and posted to the L&I website.

(2) If an injury or occupational disease is sustained by a worker of an employer who has failed to secure payment of compensation under this title, that employer may also be liable for the cost of such an injury or occupational disease at the time the claim for benefits is accepted by the department.

For the purposes of this section only the cost of such claim will be determined as follows:

The case reserve value shall be determined by the nature of the injury or occupational disease, the part of the body affected and other factors which will impact the cost((;)) including, but not limited to, age, education and work experience. The case reserve value will include actual costs paid to date and estimated future claim costs. No further adjustments or evaluations of the cost of the claim will be made for the purposes of this subsection after assessment for the cost of an injury or occupational disease is made by the department.

AMENDATORY SECTION (Amending WSR 14-24-049, filed 11/25/14, effective 1/1/15)

WAC 296-17A-0101 Classification 0101.

~~((0101-00 Land clearing: Highway, street and road construction, N.O.C.~~

Applies to contractors engaged in clearing right of ways for subsurface construction on a new or existing highway, street, or roadway project that is not covered by another classification (N.O.C.). The subsurface is the roadbed foundation consisting of dirt, sand, gravel and/or ballast which has been leveled and compressed. Unless the finished project is a compressed gravel road, the subsurface or sub-base is constructed prior to any asphalt or concrete paving activities. Work contemplated by this classification involves the excavation of rocks and boulders, removal of tree stumps, clearing or scraping land of vegetation, grubbing, earth excavation, cut and fill work, and bringing the roadbed to grade. Equipment used by contractors subject to this classification includes a variety of earth moving equipment such as, but not limited to, shovels, scrapers, bulldozers, graders, rollers, and dump trucks.

This classification excludes asphalt surfacing or resurfacing on roadways which is to be reported separately in classification 0210; construction specialty services such as the installation of guardrails, lighting standards and striping which is to be reported separately in classification 0219; bridge or tunnel construction including the abutments and approaches which is to be reported separately in classification 0201; felling of trees which is to be reported separately in the applicable logging classification; and logging road construction which is to be reported separately in classification 6902.

~~0101-01 Land clearing: Airport landing strips, runways and taxi ways; alleys and parking lots~~

Applies to contractors primarily engaged in clearing right of ways for subsurface construction on a new or existing airport landing strip, runway, and taxi way. This classification also includes clearing of right of ways for alley and parking lot projects. The subsurface is the foundation consisting of dirt, sand, gravel and/or ballast which has been leveled and compressed. Unless the finished project is compressed gravel, the subsurface or sub-base is constructed prior to any asphalt or concrete paving activities. Work contemplated by this classification involves the excavation of rocks and boulders, removal of tree stumps, clearing or scraping land of vegetation, grubbing, earth excavation, cut and fill work, and bringing the roadbed or project site to grade. Equipment used by contractors subject to this classification includes a variety of earth moving equipment such as, but not limited to, shovels, scrapers, bulldozers, graders, rollers, and dump trucks.

This classification excludes asphalt surfacing or resurfacing on roadways which is to be reported separately in classification 0210; construction specialty services such as the installation of guardrails, lighting standards and striping which is to be reported separately in classification 0219; and felling of trees which is to be reported separately in the applicable logging classification.

~~0101-02 Excavation work, N.O.C.~~

Applies to contractors engaged in general excavation work for others that is not covered by another classification (N.O.C.). Work contemplated by this classification involves excavating or digging of earth to form the foundation hole such as for a wood-frame or nonwood-frame building and

side sewer hookups (street to house) when performed as part of the excavation contract. Activities include, but are not limited to, excavation of rocks and boulders, removal of tree stumps, clearing or scraping land of vegetation, grubbing, piling or pushing of earth, earth excavation, cut and fill work, backfilling, etc. Equipment used by contractors subject to this classification includes a variety of earth moving equipment such as, but not limited to, shovels, scrapers, bulldozers, graders and dump trucks.

This classification excludes asphalt surfacing or resurfacing on roadways which is to be reported separately in classification 0210 and felling of trees which is to be reported separately in the applicable logging classification.

0101-03 Grading work, N.O.C.

Applies to contractors engaged in various forms of grading work for others that are not covered by another classification (N.O.C.). Typical equipment used is a grader, but other equipment such as a bulldozer and a front-end loader may also be used. Work contemplated by this classification includes, but is not limited to, leveling and grading lands, spreading dirt, sand, gravel and/or ballast to desired contour on farm lands or other tracts of land.

0101-04 Land clearing, N.O.C.

Applies to contractors engaged in general land clearing work that is not covered by another classification (N.O.C.). This classification includes, but is not limited to, excavation of rocks and boulders, removal of tree stumps, clearing or scraping land of vegetation, grubbing, piling or pushing of earth to rearrange the terrain, earth excavation, cut and fill work, backfilling, and slope grooming. Equipment used by contractors subject to this classification includes a variety of earth moving equipment such as, but not limited to, shovels, scrapers, bulldozers, graders and dump trucks.

This classification excludes felling of trees which is to be reported separately in the applicable logging classification.

0101-16 Railroad line: Construction, maintenance and repair, N.O.C.

Applies to contractors engaged in the construction, maintenance and repair of railroad tracks not covered by another classification (N.O.C.), including the dismantling of track and the sale of salvaged track metal and ties. Work contemplated by this classification includes all operations on new or existing main lines, side tracks and spurs to industrial properties. This classification includes, but is not limited to, the laying of rock or ballast, laying of ties and track, installation of crossover frogs and switches, erection of switch stands and switch mechanism, erection of cattle guards, the placing of grade crossing planks, and similar activities related to the laying or relaying of railroad lines and also includes the dismantling of railroad main lines, side tracks and spurs to include track, ties, etc., and the subsequent storage and sale of salvaged material after the railroad line is dismantled.

This classification excludes asphalt surfacing/resurfacing and all concrete construction work which is to be reported separately in the applicable asphalt or concrete construction classification; logging railroad construction which is to be reported separately in classification 6902; and the construction, maintenance, or repair of an elevated railway which is to be reported separately in classification 0508.

0101-17 Retaining wall: Construction or repair when done in connection with road, street and highway construction, N.O.C.

Applies to contractors engaged in the construction or repair of retaining walls in connection with highway, street, or roadway projects that are not covered by another classification (N.O.C.). Retaining walls are often constructed to protect against potential problems such as earth slides or erosion of banks alongside a roadway or overpass. Work contemplated by this classification involves large scale excavation to contour a specific area of earth serving as a retaining wall. Activities include, but are not limited to, excavation, clearing, cut and fill work, backfilling, grading and slope grooming. Fill material used may include dirt, sand, stone or boulder. Equipment used by contractors subject to this classification includes, but is not limited to, scrapers, bulldozers, graders, backhoes and dump trucks.

This classification excludes asphalt surfacing or resurfacing on roadways which is to be reported separately in classification 0210; concrete construction which is to be reported separately in the applicable concrete construction classification; construction specialty services such as the installation of guardrails, lighting standards and striping which is to be reported separately in classification 0219; bridge or tunnel construction including the abutments and approaches which is to be reported separately in classification 0201; felling of trees by chain saw which is to be reported separately in classification 5001; logging road construction which is to be reported separately in classification 6902; and tunnels and approaches including lining, cofferdam work, shaft sinking and well digging with caissons which is to be reported separately in classification 0201.

0101-37 Soil remediation

Applies to establishments engaged in various types of remediation of soil contaminated with hazardous or toxic materials. Soil remediation can take place at the site of the contamination, or the contaminated soil may be hauled to another area for remediation. This classification also includes oil spill cleanup on land. Equipment used will include backhoes and front end loaders, as well as other types of dirt moving equipment.

The methods used for soil remediation include, but are not limited to:

- Bio remediation: Contaminated soil is mixed with nutrients, sawdust, and various other additives. Naturally occurring bacteria in the soil break down the pollutants.

- Encapsulation: Contaminated soil is enclosed in some type of protective material to prevent drainage into surrounding soil.

- Excavation and hauling to an approved disposal site.

- Hot air vapor extraction: A burner unit is mounted on a trailer. Contaminated soil is arranged in layers on which an aluminum perforated pipe system is placed at 2' intervals, with a return pipe on the top layer. The soil stack is enclosed in visqueen, then hot air is pumped into the piping system which creates the steam that is recycled through the system and carries the contaminants back through the catalytic burner. Because of the catalytic action there are virtually no contaminants exhausted into the atmosphere.

—Soil vapor extraction: A series of holes are bored in the ground and vacuum pumps are used to suck the trapped gases which are drawn through carbon filters for decontamination.

—In situ vitrification: Graphite electrodes are fed into contaminated soil at a specified rate, where high voltage "melts" the organic and inorganic materials in the soil and forms a solid, glasslike substance.

—Land farming: Contaminated soil is deposited and spread out by a farm type spreader on an area of ground dedicated for this purpose. Chemical or manure fertilizer is added to provide a medium for naturally occurring bacteria to thrive. (This part is similar to bio-remediation.) The soil is turned frequently by tillers or rototillers to assist in the aeration of the soil and in the growth of the bacteria. It may take anywhere from a month to two years to cleanse the soil, depending on the volatility of the contaminants. This method is used particularly with soil that is heavily contaminated with oil.

—Mobile incineration: Contaminated soil is loaded onto a conveyor belt which carries it into the hopper of a mobile unit mounted on a lowboy trailer. The unit is heated to burn off the contaminants in the soil. The mobile unit contains a type of dust collecting mechanism which filters out gases and other undesirable elements so only clean air enters the atmosphere as the refreshed soil is produced. There are various methods of mobile incineration, but the general process and the end result are similar.

—Thermal disabsorption: A process similar to mobile incineration.

—Stabilization: Concrete landfill cells are created by mixing cement with refuse or other contaminated soil to stabilize the material and reduce the seepage into the surrounding soil.

This classification excludes oil spill cleanup involving diking or ditching work which is to be reported separately in classification 0201.

0101-39 Pool or pond excavation

Placement of pool or pond liners

Applies to contractors engaged in the excavation of pools or ponds. Work contemplated by this classification involves excavating or digging of earth to form the hole such as for a swimming pool or pond. Work contemplated by this classification includes excavation of rocks and boulders, removal of tree stumps, clearing or scraping land of vegetation, grubbing, piling or pushing of earth, earth excavation, cutting, filling or backfilling, etc. Equipment used by contractors subject to this classification includes a variety of earth moving equipment such as, but not limited to, shovels, bulldozers, backhoes and dump trucks. This classification includes the placement of plastic pool and pond liners provided it is not in connection with concrete work.

This classification excludes concrete construction which is to be reported separately in the applicable concrete construction classification.

0101-40 Mowing or chemical spraying of roadway median strips, roadsides, and/or power line right of ways

Applies to contractors engaged in mowing, grooming, picking up litter, and chemical spraying of roadway median strips and edges, roadsides, and power line right of ways.

Work contemplated by this classification includes spraying chemicals to control weeds and unwanted vegetation, tall grass, brush, brambles and tree seedlings as part of a roadway, roadside or right of way maintenance contract. Equipment used by contractors subject to this classification includes, but is not limited to, a variety of equipment such as backhoes, tractors, push mowers, brush mowers, weed eaters, as well as hand tools such as machetes, sickles, and pruners.

This classification excludes mowing and/or grooming of roadway median strips, roadsides, and power line right of ways when performed by employees of cities, counties, state agencies, or other municipalities which is to be reported in the classification applicable to the type of municipality performing the work; forest, timber or range land contract work which is to be reported separately in the classification applicable to the work being performed; and the felling and removal of trees by chain saw which is to be reported separately in classification 5001.

Special note: Classification 0301, "landscape construction," and classification 0308, "landscape maintenance," are not to be assigned to mowing and/or grooming of roadway median strips, roadsides, and power line right of ways.))

0101-02 Excavation work and land clearing, N.O.C.: Pool or pond excavation, and placement of pool or pond liners

Applies to:

Contractors engaged in general excavation work for other that is not covered by another classification (N.O.C.);

Clearing right of ways for subsurface construction on a new or existing highway, street or roadway project that is not covered by another classification (N.O.C.);

Clearing right of ways for subsurface construction on a new or existing airport landing strip, runway, and taxi way;

Clearing right of ways for alley and parking lot projects;
General land clearing work that is not covered by another classification (N.O.C.); and

Contractors engaged in the excavation of pools or ponds.

Note: The subsurface is the foundation consisting of dirt, sand, gravel and/or ballast which has been leveled and compressed. Unless the finished project is compressed gravel, the subsurface or sub base is constructed prior to any asphalt or concrete paving activities.

Work activities include, but are not limited to:

- Backfilling;
- Bringing the roadbed or project site to grade;
- Clearing or scraping land of vegetation;
- Cut and fill work;
- Earth excavation;
- Excavation or digging of earth to form the hole for pools, ponds, building foundations, and side sewer hookups (street to house) when performed as part of the excavation contract;
- Excavation of rocks and boulders;
- Grubbing;
- Piling or pushing of earth;
- Placement of plastic pool and pond liners not in connection with concrete work;
- Removal of tree stumps; and
- Slope grooming.

Equipment used include, but are not limited to:

- Backhoes;
- Bulldozers;
- Dump trucks;
- Frontend loaders;
- Graders;
- Rollers;
- Shovels; and
- Scrapers.

Exclusions:

- Worker hours engaged in asphalt surfacing or resurfacing on roadways are reported separately in classification 0210;
- Worker hours engaged in construction specialty services such as the installation of guardrails, lighting standards, and striping are reported separately in classification 0219;
- Worker hours engaged in bridge or tunnel construction, including the abutments and approaches are reported separately in classification 0201;
- Worker hours engaged in logging road construction are reported separately in classification 6902;
- Worker hours engaged in concrete construction are reported separately in the applicable concrete construction classification; and
- Worker hours engaged in felling of trees which must be reported separately in the applicable logging classification.

Notes:

- For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.
- Classification 0101 is a construction industry classification (see WAC 296-17-31013).

0101-03 Grading work, N.O.C.**Applies to:**

Contractors engaged in various forms of grading work for others that are not covered by another classification (N.O.C.).

Work activities include, but are not limited to:

- Leveling and grading lands; and
- Spreading dirt, sand, gravel, and ballast to desired contour.

Equipment used include, but are not limited to:

- Bulldozers;
- Backhoes;
- Dump trucks;
- Frontend loaders;
- Graders; and
- Rollers.

Notes:

- Classification 0101 is a construction industry classification (see WAC 296-17-31013).

0101-16 Railroad line: Construction, maintenance and repair, N.O.C.**Applies to:**

Contractors engaged in the construction, maintenance and repair of railroad tracks not covered by another classification (N.O.C.), including the dismantling of track and the sale of salvaged track metal and ties.

Work activities include, but are not limited to:

- Laying of rock and ballast;
- Laying of ties and track;
- Installing crossover frogs and switches;
- Erecting switch stands and switch mechanisms;
- Erecting cattle guards;
- Placing grade crossing planks;
- Similar activities related to laying or relaying railroad lines; and
- Dismantling railroad main lines, side tracks, and spurs and the subsequent storage and sale of salvaged material after the railroad line is dismantled.

Equipment used include, but are not limited to:

- Anchor spreaders;
- Grinders;
- Hi-Rail trucks and other vehicles that can operate both on rail tracks and conventional roads;
- New track construction (NTC) machines;
- Rail spikers; and
- Tie equipment.

Exclusions:

- Worker hours engaged in asphalt surfacing/resurfacing and all concrete construction work are reported separately in the applicable asphalt and concrete construction classifications;
- Worker hours engaged in logging railroad construction are reported separately in classification 6902; and
- Worker hours engaged in construction, maintenance, or repair of an elevated railway are reported separately in classification 0508.

Notes:

- For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.
- Classification 0101 is a construction industry classification (see WAC 296-17-31013).

0101-17 Retaining wall: Construction or repair when done in connection with road, street and highway construction, N.O.C.**Applies to:**

Contractors engaged in the construction or repair of retaining walls in connection with highway, street, or roadway projects that are not covered by another classification (N.O.C.).

Note: Work contemplated by this classification involves large scale excavation to contour a specific area of earth serving as a retaining wall. Retaining walls are often constructed to protect against potential problems such as earth slides or erosion of banks alongside a roadway or overpass.

Work activities include, but are not limited to:

- Backfilling;
- Clearing;
- Concrete pouring;

- Contouring;
- Cut and fill work;
- Excavation;
- Grading;
- Large block placement; and
- Slope grooming.

Materials used include, but are not limited to:

- Boulders;
- Dirt;
- Sand; and
- Stone.

Equipment used include, but are not limited to:

- Backhoes;
- Bulldozers;
- Dump trucks;
- Graders; and
- Scrapers.

Exclusions:

• Worker hours engaged in asphalt surfacing or resurfacing on roadways are reported separately in classification 0210;

• Worker hours engaged in concrete construction are reported separately in the applicable concrete construction classification;

• Worker hours engaged in construction specialty services such as the installation of guardrails, lighting standards, and striping are reported separately in classification 0219;

• Worker hours engaged in bridge or tunnel construction including abutments and approaches, lining, cofferdam work, shaft sinking, and well digging with caissons are reported separately in classification 0201;

• Worker hours engaged in felling of trees which must be reported separately in the applicable logging classification; and

• Worker hours engaged in logging road construction are reported separately in classification 6902.

Notes:

• For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

• Classification 0101 is a construction industry classification (see WAC 296-17-31013).

0101-37 Soil remediation

Applies to:

Businesses engaged in various types of remediation of soil contaminated with hazardous or toxic materials, including oil spill cleanup on land.

Note: Soil remediation can take place at the site of the contamination, or the contaminated soil may be hauled to another area for remediation.

Equipment used include, but are not limited to:

- Backhoes;
- Bulldozers;
- Dump trucks;
- Frontend loaders;
- Other dirt moving equipment;

- Tillers; and
- Incinerators.

Soil remediation methods used include, but are not limited to:

• Bio-remediation: Contaminated soil is mixed with nutrients, sawdust, and various other additives. Naturally occurring bacteria in the soil break down the pollutants;

• Encapsulation: Contaminated soil is enclosed in some type of protective material to prevent drainage into surrounding soil;

• Excavation and hauling to an approved disposal site;

• Hot air vapor extraction: A burner unit is mounted on a trailer. Contaminated soil is arranged in layers on which an aluminum perforated pipe system is placed at 2 foot intervals, with a return pipe on the top layer. The soil stack is enclosed in visqueen, then hot air is pumped into the piping system which creates the steam that is recycled through the system and carries the contaminants back through the catalytic burner. Because of the catalytic action there are virtually no contaminants exhausted into the atmosphere;

• In situ vitrification: Graphite electrodes are fed into contaminated soil at a specified rate, where high voltage "melts" the organic and inorganic materials in the soil and forms a solid, glasslike substance;

• Land farming: Contaminated soil is deposited and spread out by a farm type spreader on an area of ground dedicated for this purpose. Chemical or manure fertilizer is added to provide a medium for naturally occurring bacteria to thrive. (This part is similar to bio-remediation.) The soil is turned frequently by tillers or rototillers to assist in the aeration of the soil and in the growth of the bacteria. It may take anywhere from a month to two years to cleanse the soil, depending on the volatility of the contaminants. This method is used particularly with soil that is heavily contaminated with oil;

• Mobile incineration: Contaminated soil is loaded onto a conveyor belt which carries it into the hopper of a mobile unit mounted on a lowboy trailer. The unit is heated to burn off the contaminants in the soil. The mobile unit contains a type of dust-collecting mechanism which filters out gases and other nondesirable elements so only clean air enters the atmosphere as the refreshed soil is produced. There are various methods of mobile incineration, but the general process and the end result are similar;

• Soil vapor extraction: A series of holes are bored in the ground and vacuum pumps are used to suck the trapped gases which are drawn through carbon filters for decontamination;

• Stabilization: Concrete landfill cells are created by mixing cement with refuse or other contaminated soil to stabilize the material and reduce the seepage into the surrounding soil; and

• Thermal disabsorption: A process similar to mobile incineration.

Exclusions:

• Worker hours engaged in oil spill cleanup involving diking or ditching work are reported separately in classification 0201.

Notes:

• For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

• Classification 0101 is a construction industry classification (see WAC 296-17-31013).

0101-40 Mowing or chemical spraying of roadway median strips, roadsides, and/or power line right of ways

Applies to:

Contractors engaged in mowing, grooming, picking up litter, and chemical spraying of roadway median strips and edges, roadsides, and power line right of ways.

Note: Classification 0301, "landscape construction," and classification 0308, "landscape maintenance," are not to be assigned for mowing and/or grooming of roadway median strips, roadsides, and power line right of ways.

Work activities include, but are not limited to:

- Chemical spraying;
- Grooming;
- Mowing; and
- Picking up litter.

Equipment used include, but are not limited to:

- Backhoes;
- Brush mowers;
- Chemical sprayers;
- Machetes;
- Mowers;
- Pruners;
- Push mowers;
- Sickles;
- Tractors; and
- Weed eaters.

Exclusions:

• Mowing and grooming of roadway median strips, roadsides, and power line right of ways when performed by employees of cities, counties, state agencies, or other municipalities are classified in the classification applicable to the type of municipality performing the work;

• Worker hours engaged in forest, timber, and range land contract work are reported separately in the classification applicable to the work being performed; and

• Worker hours engaged in felling of trees which must be reported separately in the applicable logging classification.

Notes:

• For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

• Classification 0101 is a construction industry classification (see WAC 296-17-31013).

AMENDATORY SECTION (Amending WSR 16-14-085, filed 7/5/16, effective 1/1/17)

WAC 296-17A-2903 Classification 2903. ((Classification ~~2903~~ operations often represent the manufacturing steps between cutting raw logs in sawmills and a finished wood product that is manufactured from the intermediary wood products produced in this classification.

Equipment/machinery common to classification 2903:

- ~~Air compressors and brushes;~~
- ~~Boring machines;~~
- ~~Chippers;~~
- ~~Chisels;~~
- ~~Conveyance equipment: Forklifts, loaders, over head cranes, pallet jacks, trolley systems;~~
- ~~Debarkers;~~
- ~~Delivery trucks;~~
- ~~Drills;~~
- ~~Dryers;~~
- ~~Jointer;~~
- ~~Kilns;~~
- ~~Lathes;~~
- ~~Mills;~~
- ~~Molders;~~
- ~~Planers;~~
- ~~Pneumatic nail guns;~~
- ~~Presses;~~
- ~~Routers;~~
- ~~Sanders and blasters;~~
- ~~Saws;~~
- ~~Sorting screens;~~
- ~~Sprayers, coaters, and spreaders; paint and glue sorting screens;~~
- ~~Staple and screw guns.~~

Classification 2903 excludes:

• ~~Worker hours engaged in repair or installation work away from the employers' premises, except where noted otherwise in this rule, which are reported separately in the applicable installation classification;~~

• ~~Worker hours engaged in cutting, cultivating, or gathering of wood from forestland or tree farms, which are reported separately in the applicable classifications;~~

• ~~Worker hours engaged in cutting raw logs and all other sawmill activities, which are reported separately in classifications ~~1002~~ and ~~5001~~.~~

Note: If records are not maintained for dividing worker hours between classifications, you must report these hours in the highest rated classification as described in WAC 296-17-31017(4).

~~For administrative purposes, classification ~~2903~~ is divided into the following subclassifications:~~

~~2903-00 Manufacturing wood chips, hog fuel, bark, bark flour, fire logs and laths~~

~~Applies primarily to wood products made from log by-products, such as bark, sawdust, chips, or other mill waste.~~

~~Products reported in classification 2903-00 may include, but are not limited to:~~

• ~~Wood chips—Small pieces of wood, generally uniform in size and larger and coarser than sawdust, commonly used to make pulp, particleboard, stuffing for products such as animal bedding, and as smoker/barbecue fuel;~~

• ~~Hog fuel—Made by grinding waste wood in a hog machine. The bits are larger and coarser than wood chips. Hog fuel can be used to fire boilers or furnaces;~~

• **Bark**—The outermost covering of a tree which is chopped into pieces of varying sizes, and is commonly used for landscaping;

• **Bark flour**—Finely ground bark used as a filler or extender in adhesives;

• **Fire logs**—Made by forming sawdust into a log about fifteen inches long and used for fuel;

• **Lath**—A narrow strip of wood commonly used to support shingle, slate or tile roofing, and as a fencing material;

• **Excelsior**—The curled shreds of wood used as a packing and stuffing material, or as a raw material in making various board products;

• **Particleboard**—A panel made from discrete particles of wood which are mixed with resins and formed into a solid board under heat and pressure.

Note: In addition to operations taking place in a permanent yard or shop, this classification includes operating portable chipping or debarking mills close to the wood source. Also refer to the overall classification 2903 description at the beginning of this rule.

2903-06 Manufacturing wood furniture stock

Applies to the manufacturing of wood furniture stock. Wood furniture stock is used to make finished furniture. The wood stock is rough cut, planed, or sanded and banded and/or palletized for shipping. It is then sold to other manufacturers as unfinished and unassembled pieces of lumber.

Note: Subclassification **2903-26** can also be considered for employers cutting and sizing lumber stock for other uses in addition to furniture manufacturing. Also refer to the overall classification 2903 description at the beginning of this rule.

2903-08 Manufacturing and assembly of wood doors, jambs, windows, sashes, stairs, molding and other miscellaneous millwork

Manufacturers assigned this classification mill their products from presized stock lumber, plywood, veneer, and particle board, but materials may also include cardboard, plastic laminates, glue, hardware, glass or metal, stains, oils, and paints.

Products reported in classification 2903-08 may include, but are not limited to:

• **Doors**—This includes wood doors of all sizes and shapes, for commercial or residential uses;

• **Door/window components and grilles;**

• **Jambs;**

• **Mantels;**

• **Moldings**—This includes all types of wood molding: Picture rails, chair rails, baseboards, and other architectural molding;

• **Pillars;**

• **Sashes;**

• **Shutters;**

• **Skylights;**

• **Stairs and component parts for stairs**—Risers, tread, balusters, hand rails, and posts;

• **Turnings;**

• **Wainseot;**

• **Windows.**

Excluded from subclassification 2903-08:

• **Firms engaged in manufacturing wood furniture or easels, which are classified in 2905;**

• **Firms engaged in manufacturing wood cabinets, countertops, and fixtures, which are classified in 2907;**

• **Worker hours engaged in manufacturing metal doors, jambs, windows and sashes, which are reported separately in classification 3402.**

Note: Lumber yards and building materials centers subject to classification **2909** that prehang doors are to be assigned classification **2903-08** in addition to their basic classification. Also refer to the overall classification 2903 description at the beginning of this rule.

2903-10 Manufacturing, assembly, or repair of wood containers and pallets; wood pallet dealer and recycle operations; Including repairs of pallets

Applies to the manufacturing, assembly, and repair of wood pallets and all other types of wood containers using lumber, plywood, nails, staples, screws, glue, and paint. It also includes repairing, reconditioning, or rebuilding pallets or containers, whether at the employers' facilities or at the customer's location.

Products reported in classification 2903-10 may include, but are not limited to:

• **Boxes;**

• **Bins;**

• **Crates;**

• **Shooks** (a shook is a set of unassembled wood components for assembling a packing box or barrel);

• **Shipping containers;**

• **Storage containers.**

Note: Also refer to the classification 2903 description at the beginning of this rule.

2903-12 Manufacturing and assembly of wood products not otherwise classified (N.O.C.)

Applies to the manufacturing or assembly of miscellaneous wood products which are not described by nor included under another classification. Items manufactured are a variety of sizes and require varying degrees of manufacturing and assembly by machine and/or hand, and are primarily made from lumber, plywood, laths, and particle board, but materials may also include acrylic, staples, screws, nails, hardware, stains, paints, oils, and lacquers.

Products reported in classification 2903-12 may include, but are not limited to:

• **Attic vents;**

• **Barricades;**

• **Beams;**

• **Cable spools;**

• **Cross arms;**

• **Docks;**

• **Ends for paper rolls;**

• **Floats;**

• **Gazebos;**

• **Ladders;**

• **Lattice panels;**

• **Log home shells from dimensional log lumber;**

• **Playground equipment;**

• **Ridge cap shingles;**

• **Saunas;**

- Shims;
- Signs;
- Slugs;
- Solariums;
- Utility poles;
- Wall panels.

Special notes for manufacturing ridge cap shingles or shims:

• Classification 2903 can be assigned only after a site visit. If a classification must be assigned prior to the field inspection, the employer will be assigned classification **1005-02**;

• Employers manufacturing shakes and/or shingles in addition to ridge caps are to report the manufacture of ridge caps in classifications **1002** or **1005**, depending on the processes.

Excluded from subclassification 2903-12:

• Firms engaged in manufacturing log home shells in a permanent yard using the traditional method of peeling the logs, using chainsaws to notch logs, and assembling the logs together, which are classified in **1003**;

• Worker hours engaged in **sawmill operations**, which are reported separately in classification **1002**;

• Worker hours engaged in building log homes on-site, which are reported separately in the applicable construction classifications;

• Firms engaged in manufacturing wood household and sporting goods, which are classified in **2909**;

• Firms engaged in manufacturing wood furniture or caskets, which are classified in **2905**;

• Firms engaged in manufacturing wood cabinets, countertops and fixtures, which are classified in **2907**;

• Worker hours engaged in installation or removal of signs outside of buildings, which are reported separately in classification **0403**;

• Worker hours engaged in installation or removal of signs inside of buildings, which are reported separately in classification **0513**;

• Worker hours engaged in sign painting or lettering on the inside of buildings, and/or painting on or applying lettering to sign "backings" that are manufactured by others, which are reported separately in classification **4109**;

• Worker hours engaged in manufacturing metal or plastic signs, which are reported separately in the classification applicable to the manufacturing process.

Note: Also refer to the overall classification 2903 description at the beginning of this rule.

2903-13 Manufacturing veneer products

Applies to establishments principally engaged in the application of veneer. Veneer is a thin layer of superior quality or excellent grained wood. Veneer products, in this classification, are manufactured by gluing veneer to a core made of plywood, some other lower quality wood, or nonwood based material. The veneer is then covered with protective overlays. The product is generally sold as a lumber substitute to manufacturers or contractors.

Excluded from subclassification 2903-13:

• Firms engaged in veneer and plywood manufacturing, which are classified in **2904**.

Note: Also refer to the classification 2903 description at the beginning of this rule.

2903-21 Manufacturing wooden roof trusses

Applies to manufacturing wooden roof trusses, and/or ceiling and floor joists from wood or wood products, such as dimensional lumber (usually 2" x 4", 2" x 6", and 2" x 8"), plywood, various fasteners and other hardware.

Note: Incidental delivery by the manufacturer to the construction site often includes lifting trusses onto the roof top with a boom lift mounted on the delivery truck. This is included in this classification. Also refer to the overall classification 2903 description at the beginning of this rule.

2903-26 Lumber remanufacturing

Lumber remanufacturing is the process of converting green wood (unseasoned wood) and often rough-cut cants (large slabs of wood cut from logs), plywood, or lumber into a more specialized or higher grade product. The remanufactured lumber is then sold to other manufacturers or contractors, who use it to make their products.

Products reported in classification 2903-26 may include, but are not limited to:

- Countertops;
- Decking;
- Fencing;
- Framing studs;
- Molding;
- Paneling;
- Railroad ties;
- Siding.

Excluded from subclassification 2903-26:

• Firms engaged in only kiln drying and/or treatment of lumber with preservatives, fire retardants, or insecticides, which are classified in **1003**.

Note: Also refer to the overall classification 2903 description at the beginning of this rule.

2903-28 Manufacturing, repairing, or refinishing wood boats

Applies to businesses that manufacture, repair, or refinish wooden boats.

Excluded from subclassification 2903-28:

• Worker hours engaged in manufacturing or repairing fiberglass boats, which are classified in **3511**;

• Worker hours engaged in manufacturing or repairing metal boats, which are classified in the applicable metal manufacturing classification;

• Firms that do not manufacture boats but are engaged in mechanical, engine, electrical, vinyl and glass boat work or installation of boat accessories, as well as detailing of all types of boats, which are classified in **3414**.

Note: Also refer to the overall classification 2903 description at the beginning of this rule.)

2903-00 Manufacturing wood chips, hog fuel, bark, bark flour, fire logs or laths

Applies to:

Businesses that manufacture wood products primarily made from log by-products.

In addition to operations taking place in a permanent yard or shop, this classification includes operating portable chipping or debarking mills close to the wood source.

Products manufactured include, but are not limited to:

- Wood chips - Small pieces of wood, generally uniform in size and larger and coarser than sawdust, commonly used to make pulp, particleboard, stuffing for products such as animal bedding, and as smoker/barbecue fuel;

- Hog fuel - Made by grinding waste wood in a hog machine. The bits are larger and coarser than wood chips. Hog fuel can be used to fire boilers or furnaces;

- Bark - The outermost covering of a tree which is chopped into pieces of varying sizes, and is commonly used for landscaping;

- Bark flour - Finely ground bark used as a filler or extender in adhesives;

- Fire logs - Made by forming sawdust into a log about fifteen inches long and used for fuel;

- Lath - A narrow strip of wood commonly used to support shingle, slate or tile roofing, and as a fencing material;

- Excelsior - The curled shreds of wood used as a packing and stuffing material, or as a raw material in making various board products; and

- Particleboard - A panel made from discrete particles of wood which are mixed with resins and formed into a solid board under heat and pressure.

Materials used include, but are not limited to:

- Bark;
- Chips;
- Glue;
- Logs;
- Sawdust; and
- Other mill waste.

Equipment used include, but are not limited to:

- Chippers;
- Conveyance equipment: Forklifts, loaders, overhead cranes, pallet jacks, and trolley systems;

- Debarkers;
- Delivery trucks;
- Dryers;
- Kilns;
- Loaders;
- Mills;
- Molders;
- Presses;
- Saws; and
- Sorting screens.

Exclusions:

- Worker hours cutting, cultivating, or gathering wood from forestland or tree farms are reported separately in the applicable classifications.

- Worker hours cutting raw logs and other sawmill activities are reported separately in classifications 1002 and 5001.

Notes:

- For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

2903-08 Manufacturing or assembly of wood doors, jambs, windows, sashes, stairs, molding or other miscellaneous millwork

Applies to:

Businesses that manufacture and assemble wood doors, jambs, windows, sashes, stairs, molding and other millwork.

Products manufactured include:

- Doors - This includes wood doors of all sizes and shapes, for commercial or residential uses;

- Door/window components and grilles;

- Jambs;

- Mantels;

- Moldings - This includes all types of wood molding: Picture rails, chair rails, baseboards, and other architectural molding;

- Pillars;

- Sashes;

- Shutters;

- Skylights;

- Stairs and component parts for stairs - Risers, tread, balusters, hand rails, and posts;

- Turnings;

- Wainscot; and

- Windows.

Materials used include, but are not limited to:

- Cardboard;
- Dimensional lumber;
- Glass;
- Glue;
- Hardware;
- Metal;
- Oils;
- Paints;
- Particle board;
- Plastic laminates;
- Plywood;
- Stains; and
- Veneer.

Equipment used include, but are not limited to:

- Air compressors and brushes;
- Boring machines;
- Chippers;
- Chisels;
- Conveyance equipment: Forklifts, loaders, overhead cranes, pallet jacks, and trolley systems;
- Delivery trucks;

- Drills;

- Dryers;

- Jointers;

- Kilns;

- Lathes;

- Mills;

- Molders;

- Planers;

- Pneumatic nail guns;
- Presses;
- Routers;
- Sanders and blasters;
- Saws;
- Sprayers, coaters, and spreaders; and
- Staple and screw guns.

Exclusions:

- Manufacturing wood furniture or caskets is classified in 2905.
- Manufacturing wood cabinets, countertops, and fixtures is classified in 2907.
- Worker hours manufacturing metal doors, jambs, windows and sashes are reported separately in classification 3402.
- Worker hours repairing or installing products manufactured or assembled in this class away from the business's premises are reported separately in the applicable installation or repair classification.
- Worker hours cutting, cultivating, or gathering wood from forestland or tree farms are reported separately in the applicable classifications.
- Worker hours cutting raw logs and other sawmill activities are reported separately in classifications 1002 and 5001.

Notes:

- For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.
- Lumber yards and building materials centers subject to classification 2009 that prehang doors are assigned classification 2903-08 in addition to their basic classification.

2903-10 Manufacturing, assembly, or repair of wood containers or pallets; wood pallet dealer or recycle operations: Including repairs of pallets**Applies to:**

Businesses that manufacture, assemble, and repair wood pallets and all other types of wood containers.

Businesses that repair, recondition, or rebuild wood pallets or containers at the business's facilities or at the customer's location.

Products manufactured include, but are not limited to:

- Bins;
- Boxes;
- Crates;
- Shipping containers;
- Shooks (a shook is a set of unassembled wood components for assembling a packing box or barrel); and
- Storage containers.

Materials used include, but are not limited to:

- Glue;
- Lumber;
- Nails;
- Paint;
- Plywood;
- Screws; and
- Staples.

Equipment used include, but are not limited to:

- Air compressors and brushes;
- Chippers;
- Conveyance equipment: Forklifts, loaders, overhead cranes, pallet jacks, and trolley systems;
- Delivery trucks;
- Drills;
- Dryers;
- Jointers;
- Kilns;
- Mills;
- Planers;
- Pneumatic nail guns;
- Routers;
- Sanders and blasters;
- Saws;
- Sprayers, coaters, and spreaders; and
- Staple and screw guns.

Exclusions:

- Worker hours cutting, cultivating, or gathering wood from forestland or tree farms are reported separately in the applicable classifications.
- Worker hours cutting raw logs and other sawmill activities are reported separately in classifications 1002 and 5001.

Notes:

- For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

2903-12 Manufacturing or assembly of wood products not otherwise classified (N.O.C.)**Applies to:**

Businesses that manufacture or assemble miscellaneous wood products that are not described by or included in another classification. Items manufactured are a variety of sizes and require varying degrees of manufacturing and assembly by machine or hand.

Products manufactured include:

- Attic vents;
- Barricades;
- Beams;
- Cable spools;
- Cross arms;
- Docks;
- Ends for paper rolls;
- Floats;
- Gazebos;
- Ladders;
- Lattice panels;
- Log home shells from dimensional-log lumber;
- Playground equipment;
- Remanufactured lumber - Lumber remanufacturing is the process of converting green wood (unseasoned wood), rough-cut cants (large slabs of wood cut from logs), plywood, or lumber into a more specialized or higher grade product;
 - Ridge cap shingles or shims;
 - Saunas;
 - Signs;

- Slugs;
- Solariums;
- Utility poles;
- Veneered products - Veneered products are made by gluing veneer to cores made of plywood, other lower quality wood, or nonwood based material and are generally sold as a lumber substitute;
 - Wall panels; and
 - Wood furniture stock - Wood furniture stock is sold to other manufacturers as unfinished and unassembled pieces of lumber used to make finished furniture.

Materials used include, but are not limited to:

- Acrylic;
- Hardware;
- Lacquers;
- Laths;
- Lumber;
- Nails;
- Oils;
- Paints;
- Particle board;
- Plastic laminates;
- Plywood;
- Screws;
- Stains;
- Staples; and
- Wood veneer.

Equipment used include, but are not limited to:

- Air compressors and brushes;
- Boring machines;
- Chippers;
- Chisels;
- Conveyance equipment: Forklifts, loaders, overhead cranes, pallet jacks, and trolley systems;
- Delivery trucks;
- Drills;
- Dryers;
- Jointers;
- Kilns;
- Lathes;
- Mills;
- Molders;
- Planers;
- Pneumatic nail guns;
- Presses;
- Routers;
- Sanders and blasters;
- Saws;
- Sprayers, coaters, and spreaders; and
- Staple and screw guns.

Exclusions:

- Manufacturing log home shells in a permanent yard using the traditional method of peeling the logs, using chain-saws to notch logs, and assembling the logs together is classified in 1003.
 - Worker hours engaged in sawmill operations are reported separately in classification 1002.
 - Worker hours building log homes on-site are reported separately in the applicable construction classifications.

- Manufacturing wood household or sporting goods is classified in 2909.
- Manufacturing wood furniture or caskets is classified in 2905.
- Manufacturing wood cabinets, countertops, and fixtures is classified in 2907.
- Manufacturing wood veneer or plywood is classified in 2904.
 - Worker hours installing or removing signs outside of buildings are reported separately in classification 0403.
 - Worker hours installing or removing signs inside of buildings are reported separately in classification 0513.
 - Worker hours painting or lettering signs on the inside of buildings or painting on or applying lettering to sign "backings" that are manufactured by others are reported separately in classification 4109.
 - Worker hours manufacturing metal or plastic signs are reported separately in the classification applicable to the manufacturing process.
 - Businesses only kiln drying and/or treating lumber with preservatives, fire retardants, or insecticides are classified in 1003.
 - Worker hours repairing or installing products manufactured or assembled in this class away from the business's premises are reported separately in the applicable installation or repair classification.
 - Worker hours cutting, cultivating, or gathering wood from forestland or tree farms are reported separately in the applicable classifications.
 - Worker hours cutting raw logs and other sawmill activities are reported separately in classifications 1002 and 5001.

Notes:

- For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.
- Classification 2903 can only be assigned for ridge cap shingles or shims after a site visit. If a classification must be assigned prior to the site visit, the business will be assigned classification 1005-02. Businesses manufacturing shakes or shingles in addition to ridge caps report the manufacture of ridge caps in classification 1002 or 1005, depending on the processes.

2903-21 Manufacturing wooden roof trusses

Applies to:

Businesses that manufacture wooden roof trusses, ceiling joists, or floor joists from wood or wood products.

Products manufactured include:

- Ceiling joists;
- Floor joists; and
- Roof trusses.

Materials used include, but are not limited to:

- Dimensional lumber (usually 2" x 4", 2" x 6", and 2" x 8");
- Hardware;
- Plywood; and
- Various fasteners.

Equipment used include, but are not limited to:

- Air compressors and brushes;
- Assembly tables;
- Conveyance equipment: Forklifts, loaders, overhead cranes, pallet jacks, and trolley systems;
- Delivery trucks;
- Mills;
- Planers;
- Pneumatic nail guns;
- Roller presses;
- Saws; and
- Staple and screw guns.

Exclusions:

• Worker hours repairing or installing products manufactured or assembled in this class away from the business's premises are reported separately in the applicable installation or repair classification.

• Worker hours cutting, cultivating, or gathering wood from forestland or tree farms are reported separately in the applicable classifications.

• Worker hours cutting raw logs and other sawmill activities are reported separately in classifications 1002 and 5001.

Notes:

• For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

2903-28 Manufacturing, repairing, or refinishing wooden boats**Applies to:**

Businesses that manufacture, repair, or refinish wooden boats.

Products manufactured include:

- Wooden boats.

Materials used include, but are not limited to:

- Dimensional lumber;
- Glue;
- Hardware;
- Lacquers;
- Oils;
- Paints;
- Plywood; and
- Stains.

Equipment used include, but are not limited to:

- Drills;
- Jointers;
- Lathes;
- Planers;
- Sanders; and
- Saws.

Exclusions:

• Worker hours manufacturing or repairing fiberglass boats are reported separately in classification 3511.

• Worker hours manufacturing or repairing metal boats are reported separately in the applicable metal manufacturing classification.

• Businesses that do not manufacture boats but do mechanical, engine, electrical, vinyl or glass work on boats,

install boat accessories, or detail all types of boats are classified in 3414.

• Worker hours cutting, cultivating, or gathering wood from forestland or tree farms are reported separately in the applicable classifications.

• Worker hours cutting raw logs and other sawmill activities are reported separately in classifications 1002 and 5001.

Notes:

• For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-3701 Classification 3701.**~~(3701-03 Ammonia, nitrogen and ammonium nitrate: Manufacturing~~**

Applies to establishments engaged in the manufacture of ammonia, nitrogen and ammonium nitrate. Ammonia is a colorless gas used as a component in fertilizer, medicines and cleaning compounds manufacturing. The manufacturing process involves combining hydrogen and nitrogen gases with a catalyst which causes a reaction between the two gases when heated in a generator. Ammonium nitrate is a crystalline compound used mainly in fertilizers, explosives and propellants. The manufacturing process involves combining ammonia and nitric acid in a reactor. Nitrogen is a colorless gas that is obtained from the air and processed by compressing air in a pressurized tank, removing impurities, and separating nitrogen and oxygen through heating.

3701-04 Nitrate recovery from X-ray and photo films

Applies to establishments engaged in recovering nitrate or silver from X-ray and photo films. The recovery process involves placing the films in developing solutions, ionizing the solution and separating the elements.

3701-05 Dye and chemicals: Manufacturing

Applies to establishments engaged in the manufacture of all types of dyes and in the manufacture of dyes and chemicals that are used exclusively for tinting candles. Organic and inorganic compounds such as, but not limited to, phenols, alcohols, caustics, acids, salts and gases are used in the manufacturing process. Manufacturing methods include, but are not limited to, weighing raw materials to specifications and pumping them into vats where they are heated, agitated and cooled. They are then filtered through presses, dried in ovens, ground into a powder, and then packaged. Liquid or paste forms of dye go through the same process with the exception of the drying and grinding operations.

3701-06 Chemicals, N.O.C.: Manufacturing by nitration, alkylation and oxidation processes

Applies to establishments engaged in the manufacture of chemicals not covered by another classification (N.O.C.) using a nitration, alkylation or oxidation process. Nitration involves the combining of nitrate with an organic compound to produce nitrobenzenes used in solvents, fertilizers and acids. Alkylation involves combining alkyls with other substances to form products used in the production of paper pulp,

hard soap and petroleum products. Oxidation involves the combining of oxygen with other substances to produce products such as, but not limited to, hydrogen peroxide, protective metal coatings, and pharmaceutical preparations.

This classification excludes the manufacture of ammonia or nitrogen which is to be reported separately in classification 3701-03 and the manufacture of oxygen, hydrogen, acetylene gas, carbonic acid gas, or acids which is to be reported separately in classification 3701-10.

3701-07 Chemical mixing, blending and repackaging only: Fireworks manufacturing

Applies to establishments engaged exclusively in mixing, blending or repackaging chemicals; it does *not* apply to the manufacture of ingredients for the mixing operation. The product may be mixed by hand or through a mechanical process. The equipment used by establishments covered by this classification is limited to storage tanks, mixing or blending screens and vats, filling and packaging machines and miscellaneous equipment such as fork lifts and trucks. Fireworks are assembled by hand and using hand-operated tools.

This classification excludes establishments involved in more than a mixing, blending or repackaging operation which are to be reported separately in the appropriate chemical manufacturing classification, and technicians who set up and carry out fireworks displays who are to be reported separately in classification 6207.

3701-08 Cosmetics: Manufacturing

Applies to establishments engaged in the manufacture of cosmetics such as, but not limited to, soap, shampoo, hair conditioners, skin moisturizers, baby powder, lipstick, nail polish, bath oil, bath salts, and various personal care creams, gels or lotions. The process involves the mixing of premanufactured ingredients, using equipment such as storage tanks, mixers, heating devices, bottling/packaging/labeling equipment, and laboratory equipment for product development and quality control.

This classification excludes the manufacturing of the ingredients used in the mixing of the cosmetics.

3701-09 Drug, medicine, or pharmaceutical preparation: Manufacturing

Applies to establishments engaged in the manufacture of pharmaceuticals including drugs, medicines, and preparations such as, but not limited to, tablets, pills, ointments, liquids, and powders. Processes contemplated by this classification include mixing or blending of the base medicinal ingredients and additives such as, but not limited to, sugars, starches, flavorings, and waxes used for coating tablets. Compounds are then pulverized, distilled, heated and/or dried.

This classification excludes:

- The manufacture or harvest of the ingredients used in the manufacture of the pharmaceuticals;
- Retail compounding pharmacy stores which are to be reported in 6406-16.

3701-10 Oxygen, hydrogen, acetylene gas, carbonic acid gas: Manufacturing

Applies to establishments engaged in the manufacture of oxygen, hydrogen, acetylene gas, carbonic acid gas, dry ice,

or acid. The manufacture of oxygen and hydrogen involves the recovery of these gaseous elements from the air by compression, expansion and cooling operations until it liquefies. The liquid air then goes to a fractionator where the oxygen is separated from the hydrogen along with other gases such as neon and helium. Acetylene is a highly flammable but non-toxic gas that is manufactured by reacting calcium carbide with water in a pressure generator which combines carbon and lime to form the end product. Carbonic acid gas, also known as phenol, is a caustic poisonous gas used in manufacturing resins, plastics, and disinfectants. The manufacture of phenol involves a compression and refrigeration process.

3701-11 Alcohol: Manufacturing, distilling, N.O.C.

Applies to establishments engaged in manufacturing or distilling nonspirituous alcohol not covered by another classification (N.O.C.). Types of alcohol include, but are not limited to, methanol (wood alcohol), ethanol (grain alcohol) or denatured alcohol (combination of methanol and ethanol). Products produced include, but are not limited to, solvents, processing materials, germicides, antiseptics, or materials intended to be used as an ingredient in other products such as varnish and shellac. The processes for the production are varied depending on the type of alcohol and end product but all use a distillation process which involves the heating of liquids and subsequent condensation of vapors to purify or separate a substance contained in the original wood or grain product.

This classification excludes the manufacture of spirituous liquor which is to be reported separately in classification 3702 and gasohol distilling or refining which is to be reported separately in classification 3407.

3701-13 Polish, dressing, or ink: Manufacturing

Applies to establishments engaged in the manufacture of polish, dressings, or ink. Polish and dressing products include, but are not limited to, polish or dressings for shoes, leather, furniture, automobiles or metal. The ingredients and processes for polish and dressing manufacturing vary, depending on the end product. Typical ingredients include but are not limited to oils, waxes, resins, detergents, methanol, solvents, water and coloring. The process may involve a simple mixing operation or a more involved process involving heating or cooking and molding into a cake or stick form. Typical equipment includes, but is not limited to, weighing and measuring scales, mixers, stoves, molding apparatus, automatic filling, labeling, wrapping and packaging machines. Ink manufacturing covers all types of ink including, but not limited to, newspaper, book, magazine, and writing ink. The process involves the cooking of oils and resins which produces a resin. Pigments and dryers are blended into the resin mixture and diluted to proper consistency.

This classification excludes the manufacture of candles, crayons, and adhesives which is to be reported separately in classification 3701-25.

3701-14 Extract: Manufacturing, including distillation of essential oils

Applies to establishments engaged in the manufacture of extract including the distillation of essential oils. Extracts are concentrated forms of an essential component of a food or a plant. Extracts include, but are not limited to, flavorings, per-

fume oils, sachet powders, ingredients for skin conditioners and hop extracts used in the brewing of beer. The process involves extracting flavorings or oils from various plants, herbs or fruit peelings by pressing, cooking, steaming or distillation. The extracts may be mixed or blended with other extracts for strength, consistency or color and are then bottled or canned. Typical equipment includes, but is not limited to, steam cookers, presses, distillation apparatus, filters, grinders, tanks, vats and filling, packaging and labeling machines.

This classification excludes perfume manufacturing which is to be reported separately in classification 3701-15; mint distilling which is to be reported separately in classification 3701-17; and hop pellet manufacturing which is to be reported separately in classification 2101.

3701-15 Perfume: Manufacturing, including distillation of essential oils

Applies to establishments engaged in the manufacture of perfumes including the distillation of essential oils. Perfumes may be used as a personal fragrance or by other manufacturers such as in the making of scented candles. The process typically involves the distillation, cooking, grinding, compounding, drying, blending, or liquidizing of ingredients. These ingredients may include, but not be limited to, extracts, oils, colors and binders.

This classification excludes the manufacture of candles which is to be reported separately in classification 3701-25.

3701-17 Mint distilling

Applies to establishments engaged in the distillation of mint. The process may begin with mint oil that is purchased from others or with the distillation of the mint leaves into mint oil. The mint leaves are chopped and blown into a mint steamer which lifts the moisture and oils from the mint. The resultant steam then goes through a series of condensation lines. Water is added to force the oil to the top of the liquid. The mint oil is heated for purification and to lessen the fragrance. Various mint oils may then be blended together to produce different types such as spearmint and peppermint. The product is then packaged in stainless steel or epoxy lined barrels.

This classification excludes the raising and harvesting of mint which is to be reported separately in classification 4811.

3701-20 Salt, borax or potash producing or refining

Applies to establishments engaged in the production of or refining of salt, borax or potash. This classification includes the manufacture of common salt used in chemical and food processing, borax which is used in the manufacture of glass, glazes, soap, and boric acid, and potash which is used in fertilizer. Salt ores received from others are dissolved in water to produce a brine of the desired concentration. It is refined into common salt by adding caustic soda and soda ash. Potash is refined by adding an amine to the brine which causes the salts to float to the surface where they are skimmed off. Borax is made by separating it from the potash by a rapid cooling process. All three of these products are then fully evaporated by heating in a partial vacuum to produce crystals or granules which are then dried.

This classification excludes the production of raw materials used in the manufacture of these products.

3701-21 Serum, antitoxin or virus: Manufacturing

Applies to establishments engaged in the manufacture of serums, antitoxins, or viruses. The process involves considerable microscopic laboratory work as well as working with animals. The animals are injected with bacteria and viruses, periodically bled and eventually killed. The killing of the animals is included in this classification as it is incidental and necessary to perform the operation to extract the serum from the glands and to separate the red blood cells from the blood.

This classification excludes the manufacture of other drugs or medicines which are to be reported separately in classification 3701-09.

3701-22 Paint, varnish or lacquer: Manufacturing

Applies to establishments engaged in the manufacture of paint, varnish, lacquer, enamel, shellac, paint removers and thinners. The paint manufacturing process involves a series of mixing and grinding operations. The pigments (solids) are then blended with oils or resins (liquids). A paint extender may also be added at this point. The paint is then pumped into filling machines where various sized containers are filled and then labeled. Lacquer, varnish, enamel, shellac and paint removers and thinners vary in the ingredients used but the process is similar to that of paint manufacturing in that it is mainly a mixing operation. Varnishes involve a cooking process which is generally not used in the manufacture of the other products included in this classification.

This classification excludes the production of raw materials used in the manufacture of these products.

3701-23 Putty or synthetic resin: Manufacturing

Applies to establishments engaged in the manufacture of putty or synthetic resin. Putty is a finely powdered chalk mixed with linseed oil. The main ingredients for both putty and synthetic resins are ground chalk, limestone and/or calcite. The process for both products involves grinding and mixing operations.

This classification excludes the production of the raw materials used in the manufacture of these products.

3701-25 Candle, crayon, and paste or glue: Manufacturing

Applies to establishments engaged in the manufacture of candles, crayons, and synthetic adhesives such as paste or glue. Raw materials used for making candles include, but are not limited to, beeswax, paraffin, stearin, wicks and colors which are received from others. The wax is heated in kettles or similar devices into which the wicks are dipped either by hand or by dipping equipment which can be either manual or automated. A fragrance may be added to the melted wax for scented candles. When the wax has attained the desired shape and size it is hung on lines to dry. The wicks are then cut and the candles are placed in molds to shape the base of the candle. Color is then added by dipping either by hand for specialized designs or by machine for solid colors. The candles are then inspected, wrapped, packaged and labeled. Crayons use the same ingredients that are used in making candles with the exception of the wicks. The type of wax used in making crayons determines the hardness. The wax is melted in a kettle or similar device and poured into molds for shaping and cooling. The crayons are then inspected, packaged and labeled. Synthetic paste or glue is made from powder or granule ara-

bic gum or modified starch which is received from others along with preservatives and the containers and caps. The process involves mixing and cooking the ingredients in steel tanks and pumping the product to a filling area where it is packaged, labeled and capped.

This classification excludes the manufacture of polish, dressing, or ink which is to be reported separately in classification 3701-13; the manufacture of glue from animal substances which is to be reported separately in classification 4301; and the production of raw materials used in the manufacture of these products.

3701-27 Hazardous/toxic material: Repackaging for disposal

Applies to establishments engaged in *identifying and repackaging* hazardous/toxic materials for disposal. This classification is distinguished from classification 4305-20, in that classification 3701-27 applies to the *identifying and repackaging for disposal* of such materials as drugs, pesticides, chemicals, and toners that contain toxic or hazardous materials, while classification 4305-20 includes the *processing or handling* of such materials as medical or septic tank waste, drug lab or hazardous spill *cleanup*, and *reprocessing or handling* of low-level radioactive materials. For handling hazardous or toxic materials, the workers are equipped with protective clothing such as long-sleeved shirts, depending on the material to which they will be exposed. They may also be equipped with steel-toed boots, protective gloves, safety glasses and various types of respirator equipment. On a typical project, the first step is to visually inspect the materials to see if they appear to be the materials described on a job order. If there is a question of identity, a sample of the material is sent to a lab for analysis. The establishment may have its own lab facilities or the sample may be sent to an outside lab, or the customer may have it analyzed. Every component of the sample must be identified. Once the material has been identified, and all containers labeled, the containers are separated into appropriate groupings. Smaller containers of similar types of materials are packed into 55-gallon drums with plastic or other cushioning protective material to prevent breakage. All necessary paper work and forms required by various government agencies must be completed before the material can be transported to a disposal site.

This classification excludes hazardous/toxic material *processing or handling*, including processing of medical or septic tank waste, drug lab or hazardous spill cleanup; reprocessing or handling of low-level radioactive materials which is to be reported separately in classification 4305-20; and the replacement of nontoxic toner in cartridges used in business machines which is to be reported separately in classification 4107.)

3701-06 Chemicals, N.O.C.: Manufacturing chemical mixing, blending, and repackaging nitrate recovery from X-ray and photo films

Applies to:

Businesses engaged in manufacturing:

- Acetylene gas;
- Acid;
- Ammonia;
- Ammonia nitrate;

- Borax;
- Carbonic acid gas, also known as phenol;
- Chemicals using a nitration, alkylation or oxidation

process:

- Dry ice;
- Dyes, including dye and chemicals used for tinting candles;
- Fireworks;
- Nitrogen;
- Oxygen and hydrogen;
- Potash;
- Salt.

Businesses engaged in:

- Recovering nitrate or silver from X-ray and photo films.
- Mixing, blending or repackaging chemicals, but not manufacturing the ingredients.

Products manufactured and processes used include, but are not limited to:

• Acetylene gas - Highly flammable but nontoxic gas that is manufactured by reacting calcium carbide with water in a pressure generator, which combines carbon and lime to form the product.

• Ammonia - Colorless gas used as a component in fertilizer, medicines and cleaning compounds manufacturing. Involves combining hydrogen and nitrogen gases with a catalyst, which causes a reaction between the two gases when heated in a generator.

• Ammonia nitrate - Crystalline compound used mainly in fertilizers, explosives and propellants. Involves combining ammonia and nitric acid in a reactor.

• Borax - Used in manufacture of glass, glazes, soap, and boric acid. Produced by separating it from the potash by a rapid cooling process. Evaporated by heating in a partial vacuum to produce crystals or granules which are dried.

• Carbonic acid gas, also known as phenol - Caustic poisonous gas used in manufacturing resins, plastics, and disinfectants. The manufacture of phenol involves a compression and refrigeration process.

• Chemicals using a nitration, alkylation or oxidation process:

- Alkylation - Involves combining alkyls with other substances to form products used in the production of paper pulp, hard soap and petroleum products.

- Nitration - Involves the combining of nitrate with an organic compound to produce nitrobenzene used in solvents, fertilizers and acids.

- Oxidation - Involves the combining of oxygen with other substances to produce products such as; but not limited to, hydrogen peroxide, protective metal coatings, and pharmaceutical preparations.

- Dry ice - Carbon dioxide in a solid form.
- Dyes, including dye and chemicals used for tinting candles - Made from organic and inorganic compounds. Manufacturing methods include weighing raw materials, pumping them into vats, heating, agitating, cooling, filtering through presses, and packaging. May also include drying and grinding into powder or may be left in liquid or paste forms.
- Fireworks.

- Mixing, blending or repackaging chemicals, but not manufacturing the ingredients - Mixed by hand or through a mechanical process.

- Nitrogen - Colorless gas that is obtained from the air and processed by compressing air in a pressurized tank, removing impurities, and separating nitrogen and oxygen through heating.

- Oxygen and hydrogen - Involves the recovery of these gaseous elements from the air by compression, expansion and cooling operations until it liquefies. Liquid air then goes to a fractionator where the oxygen is separated from the hydrogen along with other gases such as neon and helium.

- Potash - Used in fertilizer. Refined by adding an amine to the brine, which causes the salts to float to the surface where they are skimmed off. Evaporated by heating in a partial vacuum to produce crystals or granules, which are dried.

- Salt - Used in chemicals and food processing. Salt ores are dissolved in water to produce a brine of the desired concentration. Refined into common salt by adding caustic soda and soda ash. Evaporated by heating in a partial vacuum to produce crystals or granules, which are dried.

- Recovering nitrate or silver from X-ray and photo films - Placing films in developing solutions, ionizing the solution and separating the elements.

Equipment includes, but is not limited to:

- Pressurized tanks;
- Vats;
- Screens;
- Ovens;
- Grinding machines;
- Mixing and blending machinery;
- Filling and packaging machinery;
- Fork lifts;
- Trucks.

Exclusions:

- Technicians who set up and carry out fireworks displays are classified in 6207.
- The production of salt ores used in the manufacture of salt, borax, and potash.

Note:

For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3701-08 Cosmetic, pharmaceutical, serum: Manufacturing

Applies to:

Businesses engaged in the manufacture of cosmetics, pharmaceuticals, serums, antitoxins or viruses.

Products include, but are not limited to:

- Soaps;
- Shampoo/conditioners;
- Creams, gels or lotions;
- Baby powder;
- Lipstick;
- Nail polish;
- Bath oils/salts;
- Tablets/pills;

- Ointments;

- Liquids/powders (pharmaceutical);

- Serums.

Work activities include, but are not limited to:

- Mixing of premanufactured ingredients.

- Mixing or blending of base medicinal ingredients and additives such as, but not limited to, sugars, starches, flavorings and waxes used for coatings.

- Bottling/packaging/labeling and laboratory equipment.

- Pulverizing, distilling, heating and drying product.

- Microscopic laboratory work.

- Working with animals, injecting with bacteria and viruses (eventually killing animal).

Killing of the animals is included in this classification as it is incidental and necessary to perform the operation to extract the serum from the glands and to separate the red blood cells from the blood.

Equipment includes, but is not limited to:

- Storage tanks;

- Mixers;

- Heating devices;

- Bottling/packaging/labeling equipment;

- Laboratory equipment.

Exclusions:

- Manufacture of ingredients used in the mixing of the cosmetics.

- Manufacture or harvest of ingredients used in the manufacture of the pharmaceuticals.

- Retail compounding pharmacy stores are classified in 6406-16.

Note:

For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3701-14 Extract, alcohol, perfume manufacturing: mint, including distillation of essential oils N.O.C.

Applies to:

Businesses engaged in manufacturing or distilling:

- Alcohol - Not for ingestion.

- Extracts - Extracts are the concentrated forms of the essential components of a food or a plant.

- Mint.

- Perfumes.

Processes used include, but are not limited to:

- Alcohol - All use a distillation process, which involves the heating of liquids and resulting condensation of vapors to purify or create a substance contained in the original wood or grain product.

- Extracts - The process for obtaining extracts involves pressing, cooking, steaming, or distillation from plants, herbs, or fruit peelings. Extracts may be mixed or blended with other ingredients for greater strength, color, or consistency. Products are bottled or canned.

- Mint - Mint distillation may begin with the use of mint oil distilled by a supplier or with the distillation of the mint into mint oil. Mint leaves are chopped and blown into a

steamer, which lifts the moisture and oils. Steam then passes through a series of condensation lines. Water is added to bring the oil to the top of the liquid. The mint oil is heated for purification and fragrance. Various mint oils may be blended together to produce distinctive products such as spearmint or peppermint.

• Perfumes - The process may involve distillation, cooking, grinding, compounding, drying, blending or liquidizing of ingredients. Ingredients may include extracts, oils, colors, and binders.

Products include, but are not limited to:

- Methanol (wood alcohol);
- Ethanol (grain alcohol);
- Denatured alcohol (combination of methanol and ethanol);
- Solvents;
- Germicides;
- Pesticides;
- Antiseptics;
- Materials intended for use in other products such as varnish or shellac;
- Flavorings, including mint, spearmint, and peppermint;
- Perfumes used to manufacture other products such as scented candles;
- Personal fragrances;
- Essential oils;
- Sachet powders;
- Ingredients for skin conditioners;
- Hop extracts used in the brewing of beer.

Equipment includes, but is not limited to:

- Distillation equipment;
- Steam cookers;
- Presses;
- Filters;
- Grinders;
- Vats;
- Vapor extraction equipment;
- Storage tanks;
- Mixers;
- Heating equipment;
- Forklifts;
- Laboratory equipment;
- Bottling, packaging, labeling equipment;
- Delivery trucks.

Exclusions:

- Manufacturing of spirituous liquor for ingestion is classified in 3702.
- Candle manufacturing is classified in 3701-22.
- Worker hours engaged in gasohol manufacturing or refining are reported separately in classification 3407.
- Worker hours engaged in hop pellet manufacturing are reported separately in classification 2101.
- Worker hours engaged in mint raising or harvesting are reported separately in classification 4811.

Note:

For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3701-22 Pigment solutions or emulsion: Manufacturing

Applies to:

Businesses engaged in manufacturing a variety of chemical products including, but not limited to:

- Candles;
- Crayons;
- Dressings, see polish;
- Enamel, see paint;
- Glue;
- Ink, all types;
- Lacquer, see paint;
- Paint;
- Paint removers and thinners;
- Paste, see glue;
- Polish, also known as dressings include, but are not limited to:
- Shoe polish;
- Leather polish;
- Furniture polish;
- Automobile polish;
- Metal polish.
- Putty;
- Shellac, see paint;
- Synthetic resin, see putty;
- Varnish.

Processes used include, but are not limited to:

• Candles - Wax is heated. Wicks are dipped in the wax either by hand or machine. Fragrances are added for scented candles. When the candles are dried, their wicks are cut and they are placed in molds to shape the base. Color may be added by hand or by machine. The candles are inspected, wrapped, packaged, and labeled.

• Crayons - Similar to candles, but crayons are molded instead of dipped.

• Dressings or polish - Ingredients and processes vary dependent upon the product. Process may be simple and involve only mixing, or process may be detailed and involve heating or cooking and forming into a mold or stick form.

• Paint, enamel, lacquer, shellac - Involves a series of mixing and grinding operations. Solid pigments are blended with liquid resins. Paint extender may be added. Paint is pumped into filling stations. Containers of paint are packaged, labeled and shipped.

• Glue or paste - Involves mixing and cooking the ingredients in steel tanks and pumping the product to a filling area where it is packaged, labeled and capped.

• Ink - Involves cooking of oils and resin. Pigments and dryers are blended into the resin, which is then diluted to the proper consistency.

• Putty or synthetic resin - Putty is a finely powdered chalk mixed with linseed oil. Putty and synthetic resins have the same ingredients. Both are made by grinding and mixing.

• Varnish - Similar to paint manufacturing process. Manufacturing varnish also includes a cooking process.

Ingredients used include, but are not limited to:

- Beeswax;
- Paraffin;
- Stearin;
- Wicks;

- Powder or granule Arabic gum;
- Modified starch received from others;
- Pigments or coloring;
- Oils;
- Other waxes;
- Resins;
- Detergents;
- Methanol;
- Solvents;
- Water;
- Ground chalk;
- Limestone;
- Calcite;
- Preservatives.

Equipment includes, but is not limited to:

- Weighing and measuring scales;
- Mixers;
- Stoves;
- Molding apparatus;
- Automatic filing, labeling, and packaging machines;
- Forklifts;
- Delivery trucks.

Exclusions:

- The production of raw materials used to manufacture listed products.
- Worker hours engaged in glue manufacturing from animal substances are reported separately in classification 4301.

Note:

For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3701-27 Hazardous/toxic material: Repackaging for disposal

Applies to:

Businesses engaged in identifying and repackaging hazardous/toxic materials for disposal.

Note: This class is distinguished from classification 4305-20, in that classification 3701-21 applies to the identifying and repackaging for disposal of such materials as drugs, pesticides, chemicals, and toners that contain toxic or hazardous materials, while classification 4305-20 includes the processing or handling of such materials as medical or septic tank waste, drug lab or hazardous spill cleanup, and reprocessing or handling of low-level radioactive materials.

Work activities include, but are not limited to:

- Visual inspection of materials.
- Sending sample of materials to lab for analysis.
- Identifying components of material.
- Labeling of containers, by appropriate groupings.
- Materials are put into drums with protective material to prevent breakage.
- Complete paperwork required by various governmental agencies.
- Transport of material to disposal site.
- Lab analysis - Businesses may have their own lab facilities or may send to outside lab.

Protective clothing and equipment includes:

- Respirators;
- Steel toed boots;
- Protective gloves;
- Safety glasses;
- Protective clothing.

Exclusions:

• Worker hours engaged in hazardous/toxic materials processing or handling, including processing of medical or septic tank waste, drug lab or hazardous spill cleanup, reprocessing or handling of low-level radioactive materials must be reported separately in classification 4305-20.

• Worker hours engaged in the replacement of nontoxic toner in cartridges used in business machines are reported separately in classification 4107.

Note:

For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

AMENDATORY SECTION (Amending WSR 10-05-109, filed 2/17/10, effective 4/1/10)

WAC 296-17A-3902 Classification 3902.

~~(3902-00 Fruit and vegetable: Cannery and freezer operations~~

~~Applies to establishments engaged in fruit and vegetable canning or freezing operations for wholesale customers. Operations contemplated by this classification include the receipt of fruit and vegetables directly from growers or dealers, preparing produce for canning by removing foreign materials such as leaves or weeds, washing, sterilizing, grading, peeling, slicing, coring, blanching, scalding and pre-cooking, premeasuring, mixing them in a hopper with sugar or other ingredients, and further processing into canned or frozen products. Pea vining, when performed by employees of a cannery, is also included in this classification.~~

~~This classification excludes establishments engaged in evaporating, preserving or dehydrating fruits and vegetables which are to be reported separately in classification 3902-01; establishments engaged in manufacturing fruit juice, cider, jam or jelly which are to be reported separately in classification 3902-02; establishments engaged in packing *fresh* vegetables and fruits which are to be reported separately in classification 2104; and pea vining when done by employees of farm operations or farm labor contractors which is to be reported separately in the applicable farm classification.~~

~~3902-01 Fruit and vegetable: Evaporating, preserving or dehydrating~~

~~Applies to establishments engaged in evaporating, preserving, or dehydrating fruits and vegetables for wholesale customers. Operations contemplated by this classification include the receipt of fruit and vegetables directly from growers or dealers, washing, peeling, cooking, pressing fruits and vegetables by machine, adding preservatives and congealants, pasteurizing, then dehydrating, drying, or evaporating to remove the moisture which preserves the fruits and vegetables and leaves only the dry, solid portion. Finished products are packaged in cans, plastic bags, or boxes for shipping.~~

This classification excludes establishments engaged in canning or freezing of fruits and vegetables which are to be reported separately in classification 3902-00; establishments engaged in manufacturing fruit juice, cider, jam or jelly which are to be reported separately in classification 3902-02; establishments engaged in packing fresh vegetables and fruits which are to be reported separately in classification 2104; and farm operations which are to be reported separately in the applicable farm classification.

3902-02 Fruit syrup or juice, cider, jam or jelly: Manufacturing

Applies to establishments engaged in the manufacture of fruit syrup, juice, cider, jam, or jelly. Operations contemplated by this classification include the receipt of fruit directly from growers or dealers, washing, peeling, and cooking the fruit, extracting juice and separating seeds from pulp with fruit presses or separators, adding sugars, congealants and preservatives, pasteurizing, blending juices to produce a variety of flavors, and further processing to produce bottled, canned, or concentrate products.

This classification excludes establishments engaged in canning or freezing of fruits and vegetables which are to be reported separately in classification 3902-00; establishments engaged in evaporating, preserving or dehydrating fruits and vegetables which are to be reported separately in classification 3902-01; and farm operations which are to be reported separately in the applicable farm classification.

3902-11 Chocolate, cocoa, corn products: Manufacturing

Applies to establishments engaged in the manufacture of cocoa or chocolate such as Dutch or sweet chocolate or of corn products such as, but not limited to, tortillas. Operations contemplated by this classification include receipt of corn and cocoa beans from growers or dealers, processing operations, testing, packaging and shipping. Foreign matter is removed from the cocoa beans and they are sorted, divided, cleaned, and roasted in ovens. Shells are cracked, usually by machines, and the beans examined to ensure quality. Depending on the products being manufactured, beans may be pasteurized, ground, further dried, mixed with chocolate liquor, sugar, powdered milk, cocoa butter, or potassium solutions to make into finished products. Depending on the corn product being made, ingredients are pressed, kneaded, cut, shaped or flattened, and baked or cooked.

This classification excludes establishments engaged in the manufacture of crackers, potato chips, ravioli, tamale, and pasta, or chocolate candy and confections which are to be reported separately in classification 3906, and farm operations which are to be reported separately in the applicable farm classification.

3902-12 Baking powder, dextrine, glucose and starch: Manufacturing

Applies to establishments engaged in the manufacture of baking powder, dextrine, glucose and starch. Operations contemplated by this classification include the receipt of vegetables and grains, such as, but not limited to, potatoes, corn, and wheat from growers or dealers, processing operations, testing, storing finished products in storage tanks, packaging into drums or cans, and shipping. Vegetables or grains are cleaned, sorted, and foreign matter removed. They are

dumped onto conveyors and transported to grinding machines where they are ground into a starch paste. Water may be added to make liquid starch or starch milk or dryers may remove excess moisture. Starch blends may be made from raw starch suspensions using chemical solutions. Shakers remove bran, gluten or other particles from the starch suspension. Dextrine is made by further mixing the starch with dextrine paste, adding chemicals, cooking and stirring until the starch is converted to dextrine. Baking powder is made by mixing baking soda, starch, and an acid compound such as cream of tartar.

This classification excludes establishments engaged in the manufacture of food sundries not covered by another classification which are to be reported separately in classification 3902-14 and farm operations which are to be reported separately in the applicable farm classification.

3902-13 Nut shelling, egg breaking, coconut shredding and peanut handling

Applies to establishments engaged in nut shelling, egg breaking, coconut shredding, and peanut handling. Nuts are received from suppliers in bulk and placed into machinery which cracks shells and separates broken shells from the nut meat. Another machine sorts whole nut meats from those that are chipped, broken, or contaminated. At each machine, nuts are examined for rejects, and foreign matter is removed with a vacuum hose or by hand. They may be chopped, sliced, or left whole, then poured from the machines into sacks or containers. The meats of certain nuts, such as almonds, may be ground into meal, then canned for shipment. This classification also includes the grading and polishing of nuts, and shredding of coconuts. Egg breaking machines break eggs and separate the yolk from the white. They are observed for color, quantity, and clarity; inferior yolks or whites are discarded prior to being automatically dropped onto separator trays with individual cups. Eggs may then be mixed with water, pasteurized or dried prior to packaging.

This classification excludes establishments engaged in the manufacture of oils which are to be reported separately in classification 3902-27 and establishments engaged in the manufacture of food sundries which are to be reported separately in classification 3902-14.

3902-14 Food sundries, N.O.C.: Manufacturing or processing

Applies to establishments engaged in the manufacture of a variety of miscellaneous food products not covered by another classification (N.O.C.). Products include, but are not limited to, imitation crab, spices, peanut butter, condiments, salsa, salad dressings, mayonnaise, soups, tofu, instant potatoes, salads and certain ready-to-eat dishes that are usually sold to wholesale distributors. This classification also applies to the grinding and roasting of coffee beans. Operations contemplated by this classification include the receipt of raw ingredients from growers or dealers, processing operations, testing, quality control, laboratory operations, packaging and shipping. Individual processes, which vary depending on the product being manufactured, include, but are not limited to, cleaning, dividing, grinding, mixing, blending with other ingredients, cooking, cooling, dividing again into desired portions, and packaging. The products are packaged in plastic

bags, bottles, or cans, usually by machine. Some products require vacuum sealing, pasteurizing, or freezing.

This classification excludes establishments engaged in the manufacture of crackers, potato chips, ravioli, tamale, pasta, cough drops, confectionery, and chewing gum which are to be reported separately in classification 3906 and farm operations which are to be reported separately in the applicable farm classification.

3902-15 Pickles and sauerkraut: Manufacturing

Applies to establishments engaged in the manufacture of pickles and sauerkraut. Operations contemplated by this classification include the receipt of produce from growers or dealers, processing operations, testing, laboratory operations, packaging and shipping. Produce, such as cucumbers and cabbage, is cleaned, cut, chopped and placed in barrels, vats, or tanks of brine (a mixture of salt, sugar, spices, vinegar) until cured. At the end of curing period, product may be packed into glass jars, plastic bags, or cans. This classification also applies to the pickling of fruits or vegetables such as, but not limited to, tomatoes, peppers, and asparagus.

This classification excludes establishments engaged in canning or freezing of fruits and vegetables which are to be reported separately in classification 3902-00; establishments engaged in evaporating, preserving or dehydrating fruits and vegetables which are to be reported separately in classification 3902-01; establishments engaged in packing fresh vegetables and fruits which are to be reported separately in classification 2104; and farm operations which are to be reported separately in the applicable farm classification.

3902-17 Pet food: Manufacturing

Applies to establishments engaged in the manufacture of frozen or canned pet foods. Operations contemplated by this classification include the receipt of raw ingredients, processing operations, packaging and shipping. After bones and foreign matter are removed, raw ingredients are cleaned and ground. Depending on the product, various ingredients such as, but not limited to, animal meat and fat, fish by-products, cornmeal, soybean meal, ground wheat, rice, poultry, yeast, whey, salt, acids, chemicals, minerals, vitamins, water, or oil are mixed in large vats either by machine or by hand. Mixture is frozen or baked, dried, and packed into cans.

This classification excludes establishments engaged in the manufacture of dry pet food using a milling process which is to be reported separately in classification 2101 and farm operations which are to be reported separately in the applicable farm classification.

3902-24 Breakfast food: Manufacturing

Applies to establishments engaged in the manufacture of breakfast foods such as cereals or breakfast bars. Operations contemplated by this classification include the receipt of ingredients, processing operations, quality control, laboratory operations, packaging, and shipping. Flour, meal, or milled grains such as, but not limited to, corn, oats, barley, wheat, and nuts are mixed with other ingredients, formed into a dough, rolled out and extruded into flakes or other shapes. Pressure cylinders may be used to expand or puff whole grains. Cereals may be sifted through screens to check for size, color, and uniformity or otherwise tested for quality, then baked or dried in bulk prior to packaging.

This classification excludes establishments engaged in the manufacture of wholesale bakery goods which are to be reported separately in classification 3906; establishments engaged in milling or grinding operations which are to be reported separately in classification 2101; and farm operations which are to be reported separately in the applicable farm classification.

3902-26 Poultry canning and canneries, N.O.C.

Applies to establishments engaged in canning poultry or canning operations not covered by another classification (N.O.C.). Operations contemplated by this classification include the receipt of poultry or other products, processing operations, quality control, laboratory operations, packaging, and shipping. The process includes, but is not limited to, washing, cutting or chopping, and cooking poultry or other foods items. Preservatives or flavorings may be added before product is sealed in cans or jars.

This classification excludes establishments engaged in canning or freezing fruits or vegetables which are to be reported separately in classification 3902-00 and establishments engaged in canning or dehydrating meat products which are to be reported separately in classification 4301.

3902-27 Vegetable oil or butter substitutes: Manufacturing

Applies to establishments engaged in the manufacture of salad or vegetable oils, shortening, margarine or other butter substitutes. Operations contemplated by this classification include the receipt of seeds or beans from growers or through dealers, processing operations, quality control, laboratory operations, packaging and shipping. To make oils, soybeans, cottonseeds, safflower seeds, or shelled corn is cracked, ground, milled, steam cooked, and pressed to extract the oil. Depending on the product being made, other ingredients such as water, milk, powdered milk or salt may be blended with the oil, then heated, filtered, and filled into cans or bottles. To make shortening or butter substitutes, flavoring, catalytic agents, and chemicals are added to harden the oils; some products are kneaded to spread the coloring uniformly; then they are packaged in cans, plastic containers, or wrapped in plastic or foil. Machinery includes, but is not limited to, grinders, screens, presses, extractors, dryers, and conveyors.

This classification excludes establishments engaged in the manufacture of "real" butter which are to be reported separately in classification 3902-28 and farm operations which are to be reported separately in the applicable farm classification.

3902-28 Dairy products: Bottling or manufacturing

Applies to establishments engaged in the bottling or manufacture of dairy products such as, but not limited to, bottled liquid or dried products derived from milk, butter, natural or processed cheeses, prepared products such as custard, dips or spread, whipped toppings, ice cream, ice cream mixes, and sherbet. Raw milk is received from suppliers and may go through heat treating, pasteurizing, cooling, and separators which adjust fat content by skimming the milk or adding cream, then pumping into vessels or vats. Additives, preservatives, flavorings, enzymes, or lactic acid may be added depending on the product being made. Further processing to manufacture cheese and other prepared dairy foods may

include, but not be limited to, mixing, draining, pressing, spray drying, aging, cutting, and shredding. Product may be bottled or otherwise packaged for shipment.

~~This classification excludes establishments primarily engaged in the manufacture of dairy-based salad dressings which are to be reported separately in classification 3902-14 and dairy-cattle farming operations which are to be reported separately in classification 7301-.)~~

This classification includes the receipt of raw materials from growers or dealers, processing operations, quality control, lab testing, warehousing, packaging, shipping, and pickup and delivery when performed by employees in connection with the business operations.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3902-00 Fruit and vegetable: Cannery and freezer operations; fruit syrup or juice, cider, jam or jelly: Manufacturing

Applies to:

Businesses engaged in fruit and vegetable canning or freezing operations for wholesale customers; and

Businesses engaged in the manufacture of fruit syrup, juice, cider, jam, or jelly.

Ingredients used include, but are not limited to:

- Various fruits and vegetables or juices;
- Sugars and sweeteners;
- Coagulants;
- Preservatives.

Work activities include, but are not limited to:

- Removing foreign materials such as leaves or weeds;
- Washing;
- Sterilizing;
- Grading;
- Peeling;
- Slicing;
- Coring;
- Blanching or scalding;
- Cooking;
- Measuring;
- Mixing;
- Extracting juice;
- Separating seeds from pulp with fruit presses or separators;

• Pasteurizing;
• Further processing to produce bottled, canned, frozen, or concentrate products; and

• Pea vining, when performed by employees of a cannery, is also included in this classification.

Machinery and equipment include, but are not limited to:

- Conveyors;
- Extractors;
- Mixers;
- Ovens;
- Pasteurizers;
- Pressers;
- Separators;
- Shakers;

- Shredders;
- Sorters;
- Storage tanks; and
- Vats.

Exclusions:

• Preserving or dehydrating fruits and vegetables are classified in 3902-01;

• Packing fresh vegetables and fruits is classified in 2104; and

• Pea vining when done by employees of farm operations or farm labor contractors is classified in the applicable farm classification.

3902-01 Fruit and vegetable: Evaporating, preserving or dehydrating

Applies to:

Businesses engaged in evaporating, preserving, or dehydrating fruits and vegetables for wholesale customers.

Ingredients include, but are not limited to:

- Various fruits and vegetables;
- Sugars and sweeteners;
- Coagulants;
- Preservatives.

Work activities include, but are not limited to:

- Washing;
- Peeling;
- Cooking;
- Pressing fruits and vegetables by machine;
- Adding preservatives and congealants;
- Pasteurizing;
- Dehydrating;
- Drying;
- Evaporating; and
- Packaging in cans, plastic bags, or boxes.

Machinery and equipment include, but are not limited to:

- Conveyors;
- Extractors;
- Mixers;
- Ovens;
- Pasteurizers;
- Pressers;
- Separators;
- Shakers;
- Shredders;
- Sorters;
- Storage tanks;
- Vats; and
- Vacuum hoses.

Exclusions:

• Canning or freezing fruits and vegetables and manufacturing fruit juice, cider, jam or jelly are classified in 3902-00;

• Packing fresh vegetables and fruits is classified in 2104; and

• Farm operations are reported in the applicable farm classification.

3902-11 Miscellaneous foods: Manufacturing

Applies to:

Businesses engaged in the manufacture of a variety of products.

Products manufactured include, but are not limited to:

- Cocoa or chocolate;
- Corn products such as, but not limited to, tortillas;
- Baking powder, dextrine, glucose, and starch made from vegetables and grains;
- Shelled nuts;
- Egg products made by using egg cracking machines;
- Pickles, sauerkraut, pickled fruits and vegetables;
- Pet food (frozen or canned);
- Breakfast foods made from flour, meal, or milled grains; and
- Vegetable oil or butter substitutes made from seeds or beans.

Processes used include, but are not limited to:

• Cocoa or chocolate, such as Dutch or sweet chocolate, are made by removing foreign matter from cocoa beans, sorting, dividing, and roasting in ovens. Shells are usually cracked by machines, and beans examined to ensure quality. Depending on the products, beans may be pasteurized, ground, further dried, mixed with chocolate liquor, sugar, powdered milk, cocoa butter, or potassium solutions to make into finished products;

• Corn products such as, but not limited to, tortillas. Depending on the corn products made by ingredients are pressed, kneaded, cut, shaped or flattened, and baked or cooked;

• Baking powder, dextrine, glucose, and starch are made from vegetables and grains, such as, but not limited to, potatoes, corn, and wheat are cleaned, sorted, and foreign matter removed; dumped onto conveyors and transported to grinding machines where they are ground into a starch paste. Water may be added to make liquid starch or starch milk or dryers may remove excess moisture.

- Starch blends may be made from raw starch suspensions using chemical solutions. Shakers remove bran, gluten, or other particles from the starch suspension;

- Dextrine is made by further mixing starch with dextrine paste, adding chemicals, cooking and stirring until the starch is converted to dextrine;

- Baking powder is made by mixing baking soda, starch, and an acid compound such as cream of tartar;

• Shelled nuts are placed into machinery which cracks shells and separates broken shells from the nut meat, then another machine sorts whole nut meats from those that are chipped, broken or contaminated. At each machine, nuts are examined for rejects, and foreign matter is removed with a vacuum hose or by hand. Nuts may be chopped, sliced, or left whole, then poured from the machines into sacks or containers. The meats of certain nuts, such as almonds, may be ground into meal, then canned for shipment. Also included is the grading and polishing of nuts, and coconut shredding;

• Egg products are made by using egg cracking machines that break eggs and separate the yolk from the white. Eggs are observed for color, quantity, and clarity; inferior yolks or whites are discarded before being automatically dropped onto

separator trays with individual cups. Eggs may then be mixed with water, pasteurized or dried before packaging;

• Pickles, sauerkraut, pickled fruits and vegetables are made by cleaning, cutting, chopping and placing in barrels, vats, or tanks of brine (a mixture of salt, sugar, spices, vinegar) until cured. At the end of the curing period, product may be packed into glass jars, plastic bags, or cans;

• Pet food (frozen or canned) is made by removing bones then cleaning and grinding raw ingredients. Depending on the product, various ingredients include, but not limited to, animal meat and fat, fish by-products, cornmeal, soybean meal, ground wheat, rice, poultry, yeast, whey salt, acids, chemicals, minerals, vitamins, water, or oil and are mixed in large vats either by machine or by hand. The mixture is frozen or baked, dried, and packed into cans;

• Breakfast foods are made from flour, meal, or milled grains, such as, but not limited to, corn, oats, barley, wheat, and nuts mixed with other ingredients, formed into a dough, rolled out and extruded into flakes or other shapes. Pressure cylinders may be used to expand or puff whole grains. Cereals may be sifted through screens to check for size, color, and uniformity then baked or dried in bulk before packaging; and

• Vegetable oil or butter substitutes are made from seeds or beans, such as soybeans, cottonseeds, safflower seeds, or shelled corn which is cracked, ground, milled, steam cooked, and pressed to extract the oil. Depending on the product being made, other ingredients such as water, milk, powdered milk or salt may be blended with the oil, then heated, filtered, and filled into cans or bottles. To make shortening or butter substitutes, flavoring, catalytic agents, and chemicals are added to harden the oils; some products are kneaded to spread the coloring uniformly, then packaged into cans, plastic containers, or wrapped in plastic or foil.

Work activities include, but are not limited to:

- Removing foreign matter from raw product;
- Sorting;
- Dividing;
- Cleaning;
- Cooking;
- Pasteurizing;
- Grinding;
- Mixing;
- Pressing;
- Kneading;
- Cutting;
- Shaping;
- Flattening;
- Baking;
- Cooking;
- Storing.

Machinery and equipment include, but are not limited to:

- Choppers;
- Conveyors;
- Dryers;
- Egg breakers;
- Extruders;
- Extractors;
- Grinders;
- Mixers;

- Nut crackers;
- Pasteurizers;
- Presses;
- Pressure cylinders;
- Sack makers;
- Screens;
- Separators;
- Shakers;
- Shredders;
- Sorters;
- Storage tanks;
- Vats; and
- Vacuum hoses.

Exclusions:

• Manufacturing crackers, potato chips, ravioli, tamale, and pasta, or chocolate candy and confections are classified in 3906;

• Farm operations are classified separately in the applicable farm classification;

• Manufacturing food sundries not covered by another classification are classified in 3902-14;

• Canning or freezing of fruits and vegetables are classified in 3902-00;

• Evaporating, preserving or dehydrating fruits and vegetables which are classified in 3902-01;

• Packing fresh vegetables and fruits are classified in 2104;

• Milling or grinding operations; and those that manufacture dry pet food using a milling process, are classified in 2101;

• Manufacturing wholesale bakery goods is classified in 3906; and

• Manufacturing "real" butter classified in 3902-28.

3902-14 Food sundries, N.O.C.: Manufacturing or processing

Applies to:

Businesses engaged in the manufacture of a variety of food products not covered by another classification (N.O.C.).

Products manufactured include, but are not limited to:

- Imitation crab;
- Spices;
- Peanut butter;
- Condiments;
- Salsa;
- Salad dressings;
- Mayonnaise;
- Soups;
- Tofu;
- Instant potatoes;
- Salads and certain ready-to-eat dishes that are usually sold to wholesale distributors; and
- Grinding and roasting of coffee beans.

Work activities include, but are not limited to:

- Cleaning;
- Dividing;
- Grinding;
- Roasting;

- Mixing;
- Blending with other ingredients;
- Cooking;
- Cooling;
- Dividing ingredients and product into desired portions;
- Packaging in plastic bags, bottles, or cans;
- Vacuum sealing;
- Pasteurizing; and
- Freezing.

Machinery and equipment include, but are not limited to:

- Conveyors;
- Extractors;
- Mixers;
- Ovens;
- Pasteurizers;
- Pressers;
- Separators;
- Shakers;
- Shredders;
- Sorters;
- Storage tanks; and
- Vats.

Exclusions:

• Manufacturing crackers, potato chips, ravioli, tamale, pasta, cough drops, confectionery, and chewing gum which are classified in 3906; and

• Farm operations are classified in the applicable farm classification.

3902-28 Dairy products: Bottling or manufacturing

Applies to:

Businesses engaged in the bottling or manufacture of dairy products.

Products manufactured include, but are not limited to:

- Bottled liquid or dried products derived from milk;
- Butter;
- Natural or processed cheeses; and
- Prepared products such as custard, dips or spread, whipped toppings, ice cream, ice cream mixes, and sherbet.

Work activities include, but are not limited to:

- Heat treating;
- Pasteurizing;
- Cooling;
- Separating;
- Pumping into vessels or vats;
- Adding preservatives, flavorings, enzymes, or lactic acid may be added depending on the product being made;
- Mixing;
- Draining;
- Pressing;
- Spray drying;
- Aging;
- Cutting;
- Shredding; and
- Bottling or other types of packaging.

Machinery and equipment used include, but are not limited to:

- Mixers;
- Coolers;
- Pasteurizers;
- Separators;
- Vats;
- Conveyors;
- Bottlers; and
- Packagers.

Exclusions:

- Manufacturing primarily dairy-based salad dressings is classified in 3902-14; and
- Dairy cattle farming operations are classified in 7301.

AMENDATORY SECTION (Amending WSR 15-02-060, filed 1/6/15, effective 7/1/15)

WAC 296-17A-4802 Classification 4802.

4802-02 Farms: Berry

Applies to:

((Establishments engaged in raising berries of all types.

Work in this classification includes, but is not limited to:

- ~~Preparing soil for new plants;~~
- ~~Planting;~~
- ~~Fertilizing;~~
- ~~Weeding;~~
- ~~Pruning canes;~~
- ~~Cutting runners;~~
- ~~Installing posts and wire supports;~~
- ~~Tying vines;~~
- ~~Machine harvesting of berries;~~
- ~~Maintaining or installing sprinkler or irrigation systems.~~

Notes:

• ~~Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.~~

• ~~If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.~~

What activities are not included in this classification?

- ~~Fresh fruit packing operations (report in classification 2104);~~
- ~~Canneries or freezer operations (report in classification 3902);~~
- ~~Winery operations (report in classification 3702);~~
- ~~Hand harvesting of berries (report in classification 4806); and~~
- ~~Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).~~

What is a farm labor contractor?

- ~~A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and~~
- ~~Generally the work involves manual labor tasks as opposed to machine operation.~~

What risk classification are farm labor contractors to report in?

- ~~Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and~~
- ~~Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.~~

4802-03 Farms: Bulb raising

Applies to:

Establishments engaged in raising flowers and plants for bulbs.

Work in this classification includes, but is not limited to:

- ~~Work done in an open field or a greenhouse;~~
- ~~Preparing soil for new plants;~~
- ~~Planting;~~
- ~~Fertilizing;~~
- ~~Weeding;~~
- ~~Dead heading;~~
- ~~Cutting flowers;~~
- ~~Subsequent grading, sorting, packing, and shipping of bulbs;~~
- ~~Maintaining or installing sprinkler or irrigation systems;~~
- ~~Machine digging and harvesting bulbs.~~

Notes:

• ~~Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.~~

• ~~If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.~~

What activities are not included in this classification?

- ~~Establishments engaged exclusively in the sale of fresh cut flowers and potted plants that are not involved in the cultivation of plants or flowers (report in classification 6404);~~
- ~~Hand picking of bulbs (report in classification 4806); and~~
- ~~Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).~~

What is a farm labor contractor?

- ~~A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and~~
- ~~Generally the work involves manual labor tasks as opposed to machine operation.~~

What risk classification are farm labor contractors to report in?

- ~~Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and~~
- ~~Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of~~

farm they are providing services to or the type of crop involved.

4802-06 Picking of forests products, N.O.C.

Applies to:

Establishments engaged exclusively in picking forest products that are not covered by another classification (N.O.C.).

Work in this classification is limited to:

- Hand-picking operations;
- Using hand-held cutting devices such as pruning shears or saws.

Typical crops:

Cedar boughs	Moss	Wild flowers
Cones	Mushrooms	
Ferns	Tree bark	
Holly	Wild berries	

Special note:

• The farm labor contractor provision, as described in the general reporting rules, is not applicable to this classification as such establishments are not engaged in a farming operation;

• Properties from which products are harvested from may be owned or leased; and

• Operations not described above are to be reported separately in the classification applicable to the work being performed.

4802-11 Farms: Flower or vegetable seeds

Applies to:

Establishments engaged in raising flowers, flowering plants or vegetable plants for seed.

Work in this classification includes, but is not limited to:

- Preparing soil for new plants;
- Planting;
- Fertilizing;
- Weeding;
- Machine harvesting seeds;
- Drying of seeds;
- Cutting fresh flowers;
- Harvesting incidental fresh vegetables;
- Maintaining or installing sprinkler or irrigation systems;
- Subsequent grading, sorting, packing and shipping of seed.

Work may take place in an open field or a greenhouse.

Notes:

• Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

• If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.

What activities are not included in this classification?

• Fresh vegetable packing operations (report in classification 2104);

• Canneries or freezer operations (report in classification 3902);

• Establishments engaged exclusively in the sale of fresh cut flowers and potted plants but not involved in the cultivation of plants or flowers (report in classification 6404);

• Hand-gathering of seeds where no hand-held cutting device is used (report in classification 4806);

• Establishments engaged exclusively in the sale of fresh vegetables but not involved in the cultivation of plants (report in classification 6403); and

• Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).

What is a farm labor contractor?

• A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and

• Generally the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

• Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and

• Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4802-12 Farms: Field vegetable crops—Mechanically harvested

Fresh market

Applies to:

Establishments engaged in raising field vegetable crops that are mechanically harvested.

Work in this classification includes, but is not limited to:

- Preparing soil for new plants;
- Planting;
- Fertilizing;
- Weeding;
- Pruning;
- Harvesting vegetables mechanically;
- Maintaining or installing sprinkler or irrigation systems.

Typical crops:

Carrots	Radishes	Table-beets
Cucumbers	Rhubarb	Tomatoes
Green beans	Rutabagas	Turnips
Parsnips	Squash	
Potatoes	Sweet corn	

Notes:

• Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

• If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.

How is 4802-12 different from 4808 "Diversified field crops"?

• **Work in 4802** is generally associated with plantings in smaller quantities that result in continuous harvests throughout the season. For example, although corn is technically a grain crop, it is widely accepted as a vegetable crop when harvested for fresh market, cannery, or frozen food.

• **Work in 4808** is generally associated with vegetable crops that have a long growing season and are harvested when mature at the end of the season. These crops are left in the field to dry and are used as feed, flour, or cereal grain.

What activities are not included in this classification?

- Field vegetable crops harvested by hand (report in classification 4810);
- Fresh vegetable packing operations (report in classification 2104);
- Canneries or freezer operations (report in classification 3902); and
- Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).

What is a farm labor contractor?

- A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and
- Generally the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

- Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and
- Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4802-13 Farms: Flowers—Field growing

Farms: Florists—Cultivating or gardening

Applies to:

Establishments engaged in raising flowers and flowering plants for sale.

Work in this classification includes, but is not limited to:

- Preparing soil for new plants;
- Planting;
- Fertilizing;
- Weeding;
- Cutting fresh flowers;
- Maintaining or installing sprinkler or irrigation systems;
- Subsequent grading, sorting, packing and shipping of flowers;
- Incidental collection of flower seeds for use in future crops.

Growing may take place in an open field or a greenhouse.

Notes:

• Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

• If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.

What activities are not included in this classification?

- Establishments engaged exclusively in the sale of fresh cut flowers and potted plants but not involved in the cultivation of plants or flowers (report in classification 6404); and
- Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).

What is a farm labor contractor?

- A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and
- Generally the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

- Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and
- Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.))

Businesses engaged in raising berries of all types.

Work activities include, but are not limited to:

- Preparing soil for new plants;
- Planting;
- Fertilizing;
- Weeding;
- Pruning canes;
- Cutting runners;
- Installing posts and wire supports;
- Tying vines;
- Machine harvesting of berries;
- Maintaining or installing sprinkler or irrigation systems.

Notes:

• Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

• If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.

• For rules on assigning in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

Typical crops:

- All types of mechanically harvested berries.

Exclusions:

• Worker hours or businesses engaged in fresh fruit packing operations must be reported separately in classification 2104;

• Worker hours or businesses engaged in canneries or freezer operations must be reported separately in classification 3902;

• Winery operations are classified in classification 3702;

• Hand harvesting of berries are classified in classification 4806; and

• Contractors hired by a farm to install, repair or build any farm equipment or structures report in the classification applicable to the work performed.

What is a farm labor contractor?

• A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating or fertilizing; and

• Work usually involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

• Farm labor contractors are reported in the classification that applies to the farm they are contracting with; and

• Contractors who provide both equipment or machinery and the machine operator are reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4802-03 Farms: Bulb raising, flower or vegetable seeds, floral grow operations - Florists - Cultivating or gardening**Applies to:**

Businesses engaged in raising flowers, plants for bulbs, raising flowers or vegetable plants for seed, or in raising flowering plants for sale.

Work activities include, but are not limited to:

• Work done in an open field or a greenhouse;

• Preparing soil for new plants;

• Planting;

• Fertilizing;

• Weeding;

• Machine harvesting of seeds;

• Drying of seeds;

• Dead heading;

• Cutting fresh flowers;

• Cutting incidental fresh vegetables;

• Subsequent grading, sorting, packing, and shipping of bulbs;

• Maintaining or installing sprinkler or irrigation systems;

• Machine digging and harvesting bulbs;

• Subsequent grading, sorting, packing, and shipping of seed or fresh flowers or plants.

Notes:

• Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

• If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in

parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.

Typical crops:

• Flowers, mechanically harvested;

• Flower bulbs or any type of bulb, mechanically harvested;

• Flower seeds, mechanically harvested;

• Vegetable seeds, mechanically harvested.

Exclusions:

• Worker hours or businesses engaged in fresh vegetable packing operations must be reported separately in classification 2104.

• Worker hours or businesses engaged in canneries or freezer operations must be reported separately in classification 3902.

• Businesses engaged exclusively in the sale of fresh cut flowers and potted plants that are not involved in the cultivation of plants or flowers are classified in classification 6404.

• Hand picking of bulbs or hand harvesting of flowers are classified in classification 4806.

• Hand gathering of seeds where no handheld cutting device is used is classified in classification 4806.

• Contractors hired by a farm to install, repair or build any farm equipment or structures are not farm labor contractors and must be reported in the classification applicable to the work being performed.

What is a farm labor contractor?

• A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating or fertilizing; and

• Generally, the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

• Farm labor contractors report in the classification that applies to the farm they are contracting with; and

• Contractors who provide both equipment or machinery and the machine operators are reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4802-06 Picking of forest products, N.O.C.**Applies to:**

Businesses engaged exclusively in picking forest products that are not covered by another classification (N.O.C.).

Work activities include, but are not limited to:

• Hand picking operations;

• Using handheld pruning shears or saws;

• The farm labor contractor provision, as described in the general reporting rules, is not applicable to this classification as such establishments are not engaged in a farming operation;

• Properties from which products are harvested from are owned or leased; and

• Operations not described above report separately in the classification applicable to the work performed. (For example, if an employee harvests cedar boughs from the woods, the employee is reported in classification 4802-06.)

Typical crops:

• Cedar boughs;

- Cones;
- Ferns;
- Holly;
- Moss;
- Mushrooms;
- Tree bark;
- Wild berries;
- Wild flowers.

4802-12 Farms: Field vegetable crops - Mechanically harvested for fresh market

Applies to:

Businesses engaged in raising field vegetable crops that are mechanically harvested.

Work activities include, but are not limited to:

- Preparing soil for new plants;
- Planting;
- Fertilizing;
- Weeding;
- Pruning;
- Harvesting vegetables mechanically;
- Maintaining or installing sprinkler or irrigation systems.

Notes:

Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.

Typical crops:

- Carrots;
- Cucumbers;
- Green beans;
- Parsnips;
- Potatoes;
- Radishes;
- Rhubarb;
- Rutabagas;
- Squash;
- Sweet corn;
- Table beets;
- Tomatoes;
- Turnips.

How is 4802-12 different from 4808 "Diversified field crops"?

Work in 4802 is generally associated with plantings in smaller quantities that result in continuous harvests throughout the season. For example, although corn is technically a grain crop, it is widely accepted as a vegetable crop when harvested for fresh market, cannery, or frozen food. Classification 4808 is generally associated with vegetable crops that have a long growing season and are harvested when mature at the end of the season. These crops are left in the field to dry and are used as feed, flour, or cereal grain.

Exclusions:

Worker hours or businesses engaged in field vegetable crops harvested by hand must be reported separately in classification 4810.

Worker hours or businesses engaged in fresh vegetable packing operations must be reported separately in classification 2104.

Worker hours or businesses engaged in canneries or freezer operations must be reported separately in classification 3902.

Contractors hired by farm to install, repair or build any farm equipment or structures are not farm labor contractors and must be reported in the classification applicable to the work performed.

What is a farm labor contractor?

A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and

Generally, the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

Farm labor contractors are reported in the classification that applies to the farm they are contracting with; and

Contractors who provide both equipment or machinery and the machine operators are reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

AMENDATORY SECTION (Amending WSR 16-11-082, filed 5/17/16, effective 7/1/16)

WAC 296-17A-4808 Classification 4808.

((4808-01 Farms: Diversified field crops—Not for fresh market

Applies to:

Establishments engaged in growing a variety of grain, vegetable, or grass crops during a single season.

Work in this classification includes, but is not limited to:

- Preparing soil for new crops;
- Planting;
- Fertilizing;
- Weeding;
- Harvesting;
- Grading;
- Sorting;
- Packing;
- Shipping of farm products grown subject to this classification;
- Maintaining or installing sprinkler or irrigation systems.

Typical crops:

Alfalfa	Garlic	Rye
Barley	Grain	Sugar beets (for sugar)
Beans, dry	Grass seed	Timothy
Clover	Grass hay	Wheat
Corn (dry, silage)	Peas, dry	

Notes:

- Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

- If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.

- This classification differs from classification 4802 "Vegetable farm operations" in that vegetable crops in classification 4808 generally have a long growing season and are harvested upon reaching maturity at the end of the season. Vegetable crops grown in classification 4802 are generally planted so that harvesting will occur continuously over the season and in smaller quantities. Crops grown in classification 4808 are generally used as feed, flour, or cereal grains, as opposed to crops grown in classification 4802, which are used for fresh market, cannery or frozen foods.

What activities are not included in this classification?

- Fresh vegetable packing (report in classification 2104);
- Canneries or freezer operations (report in classification 3902);

- Employers growing only cereal grain crops, such as barley, corn, rye, or wheat (report in subclassification 4808-06);

- Establishments engaged exclusively in the sale of fresh vegetables but not involved in the cultivation of plants (report in classification 6403); and

- Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).

What is a farm labor contractor?

- A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and

- Generally the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

- Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and

- Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4808-02 Farms: Alfalfa, clover, and grass seed**Applies to:**

Establishments engaged exclusively in raising alfalfa, clover, and grass crops for seed.

Work in this classification includes, but is not limited to:

- Preparing soil for crops;
- Planting;
- Fertilizing;
- Machine harvesting;
- Drying of seeds;
- Grading;

- Sorting;

- Packing and shipping of seeds;

- Maintaining or installing sprinkler or irrigation systems.

What activities are not included in this classification?

- Grading, sorting, and packaging seeds; or selling baled alfalfa or clover by establishments not engaged in growing operations (report in classification 2101);

- Establishments engaged exclusively in grain or seed storage that are not engaged in growing operations (report in classification 2007); and

- Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).

What is a farm labor contractor?

- A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and

- Generally the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

- Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and

- Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4808-04 Farms: Hay**Applies to:**

Establishments engaged exclusively in raising hay, which includes, but is not limited to, grass hay, straw, clover, alfalfa, and timothy.

Work in this classification includes, but is not limited to:

- Raising of hay crops for seed;
- Preparing soil for crops;
- Planting;
- Fertilizing;
- Machine harvesting;
- Grading;
- Sorting;
- Drying of seeds;
- Packing and shipping of seeds;
- Maintaining or installing sprinkler or irrigation systems.

Note:

- Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

What activities are not included in this classification?

- Grading, sorting, and packaging seeds; or selling baled hay by establishments not engaged in growing operations (report in classification 2101); and

- Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).

What is a farm labor contractor?

• A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and
 • Generally the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

• Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and
 • Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4808-06 Farms: Cereal grains

Applies to:

Establishments engaged in growing cereal grain crops.

Work in this classification includes, but is not limited to:

- Preparing soil for new crops;
- Planting;
- Fertilizing;
- Weeding;
- Harvesting;
- Grading;
- Sorting;
- Packaging and shipping of farm products grown subject to this classification;
- Maintaining or installing sprinkler or irrigation systems;

Note:

• Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

Typical crops:

Barley	Rye
Corn	Wheat

What activities are not included in this classification?

• Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).

What is a farm labor contractor?

• A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and
 • Generally the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors to report in?

• Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and
 • Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4808-07 Potato sorting and storage

Applies to:

Establishments engaged in storing potatoes in storage warehouses or cellars.

Work in this classification includes, but is not limited to:

- Sorting good potatoes from damaged ones, or from debris such as vines or rocks;
- Piling potatoes into storage area by size, and storing them until they are taken to processing or packaging plants;
- Sorting done in either the field or at a storage warehouse;
- Potato digging and piling when performed by employees of an employer who stores potatoes, but who is not engaged in growing potatoes.

What activities are not included in this classification?

- Fresh vegetable packing operations (report in classification 2104);
- Canneries or freezer operations (report in classification 3902);
- Potato chip manufacturing (report in classification 3906);
- Establishments engaged exclusively in the sale of fresh vegetables but not involved in the cultivation of plants (report in classification 6403); and
- Contractors hired by farm to install, repair or build any farm equipment or structures (report in the classification applicable to the work being performed).

Special note: The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.

4808-08 Custom hay baling

Applies:

Exclusively to a specialist farm labor contractor engaged in mowing, turning, and baling hay owned by others.

Work in this classification includes:

- Incidental loading of hay onto trucks;
- Stacking of hay in barns or warehouses.

Special note: The farm labor contractor provision is not applicable to this classification as such establishments are not engaged in a farming operation.

4808-11 Custom farm services by contractor

Applies:

Exclusively to contractors engaged in supplying and operating agriculture machinery and equipment at their customers' locations.

Typical equipment used:

Boom loaders	Pickers	Reapers
Combines	Plows	Tractors
Fertilizer spreaders	Potato diggers	

Work in this classification includes, but is not limited to:

- Preparing fields for crops;
- Planting;
- Cultivating crops;
- Fertilizing;
- Harvesting;

~~This classification also includes seasonal agriculture produce hauling from the field to a processing or storage plant when performed by employees of an employer not engaged in the related farming operations associated with the crops being hauled.~~

What activities are not included in this classification?

~~Contractors subject to this classification are generally not responsible for the overall care of the crops, but are merely hired to provide specified services, which involve the use of machinery and employee equipment operators;~~

~~Hauling of agriculture produce from anywhere other than field to processing or storage plant is to be reported in classification 1102.)~~ **4808-01 Farms: Field crops - Not for fresh market**

Applies to:

Businesses engaged in growing:

Variety of grains, or vegetables (generally used as feed, flour, or cereal grains, as opposed to crops grown in classification 4802, which are used for fresh market, canning or frozen foods);

Alfalfa, clover, timothy, straw, and other types of grass for hay or seed.

Work activities include, but are not limited to:

Preparing soil for new crops;

Planting;

Fertilizing;

Weeding;

Machine harvesting;

Drying of seeds;

Grading;

Sorting;

Packing;

Shipping of farm products grown subject to this classification;

Maintaining or installing sprinkler or irrigation systems.

Machinery and equipment used include, but are not limited to:

Balers;

Combines;

Fertilizer spreaders;

Irrigation equipment;

Seeding equipment;

Tillers;

Disk harrows;

Tractors.

Typical crops:

Alfalfa;

Barley;

Dry beans;

Clover;

Corn for silage;

Garlic;

Grass hay;

Grass seed;

Peas, dry;

Rye;

Straw;

Sugar beets (for sugar);

Timothy hay;

Wheat.

Notes:

Roadside stands are included in the farming classification when operated at or near the farm, even if a small stock of products not produced by the employer is also sold.

If all the conditions of the general reporting rules covering the operations of a secondary business are met, farms operating multiple retail locations, such as those found in parking lots of shopping centers or at farmer's markets, may qualify to have those activities reported separately.

This classification differs from classification 4802 "Vegetable farm operations" in that vegetable crops in classification 4808 generally have a long growing season and are harvested upon reaching maturity at the end of the season. Vegetable crops grown in classification 4802 are generally planted so that harvesting will occur continuously over the season and in smaller quantities. Crops grown in classification 4808 are generally used as feed, flour, or cereal grains, as opposed to crops grown in classification 4802, which are used for fresh market, canning or frozen foods.

Exclusions:

Worker hours or businesses engaged in fresh vegetable packing must be reported separately in classification 2104.

Worker hours or businesses engaged in cannery or freezer operations must be reported separately in classification 3902.

Businesses engaged exclusively in the sale of fresh vegetables, but not involved in the cultivation of plants, are classified in classification 6403.

Contractors hired by the farm to install, repair or build any farm equipment or structures, must report in the classification applicable to the work being performed.

Grading, sorting, and packaging seeds; or selling baled hay (alfalfa, timothy, clover, etc.) by businesses that are not engaged in growing operations is classified in classification 2101.

Businesses engaged exclusively in grain or seed storage that are not engaged in growing operations, are classified in classification 2007.

What is a farm labor contractor?

A farm labor contractor is a specialty contractor who supplies laborers to a farm operation for specified services such as weeding, planting, irrigating and fertilizing; and

Generally, the work involves manual labor tasks as opposed to machine operation.

What risk classification are farm labor contractors reported in?

Farm labor contractors are to be reported in the classification that applies to the farm they are contracting with; and

Contractors who provide both equipment or machinery and the machine operators are to be reported in classification 4808 "Custom farm services," as the process involved in operating machinery is the same regardless of the type of farm they are providing services to or the type of crop involved.

4808-07 Potato sorting and storage

Applies to:

Businesses engaged in storing potatoes in storage warehouses or cellars.

Work activities include, but are not limited to:

- Sorting good potatoes from damaged ones, or from debris, such as vines or rocks, either in the field or at a storage warehouse.
- Piling potatoes into storage area by size, and storing them until they are taken to processing or packaging plants.
- Sorting done in either the field or at a storage warehouse.
- Potato digging and piling when performed by employees of an employer who stores potatoes, but who is not engaged in growing potatoes.

Exclusions:

- Worker hours or businesses engaged in fresh vegetable packing operations, must be reported separately in classification 2104.
- Worker hours or businesses engaged in cannery or freezer operations, must be reported separately in classification 3902.
- Worker hours or businesses engaged in potato chip manufacturing, must be reported separately in classification 3906.
- Businesses engaged exclusively in the sale of fresh vegetables, but not involved in the cultivation of plants, are classified in classification 6403.
- Contractors hired by a farm to install, repair, or build any farm equipment or structures, must report in the classification applicable to the work being performed.

Special note: The farm labor contractor provision is not applicable to this classification because these businesses are not engaged in farming operations.

4808-11 Custom farm services (by contractor)**Applies to:**

Contractors supplying and operating agriculture machinery and equipment at their customers' locations.

Work activities include, but are not limited to:

- Preparing fields for crops;
- Planting;
- Cultivating crops;
- Fertilizing;
- Harvesting;
- Mowing, turning and bailing hay;
- Incidental loading of hay onto trucks;
- Stacking of hay in barns or warehouses.

Note: This classification also includes seasonal agriculture produce hauling from the field to a processing or storage plant when performed by employees of an employer not engaged in the related farming operations associated with the crops being hauled.

Machinery and equipment used include, but are not limited to:

- Balers;
- Boom loaders;
- Combines;
- Fertilizer spreaders;
- Potato diggers;
- Seeding equipment;
- Spreaders;
- Tillers/disks;
- Tractors.

Exclusions:

- Contractors subject to this classification are generally not responsible for the overall care of the crops but are merely hired to provide specified services, which involve the use of machinery and employee equipment operators.
- Hauling of agriculture produce anywhere other than from the field to processing or storage plants is classified in classification 1102.

Special note: The farm labor contractor provision is not applicable to this classification because these businesses are not engaged in farming operations.

AMENDATORY SECTION (Amending WSR 17-03-109, filed 1/17/17, effective 4/1/17)

WAC 296-17A-0301 Classification 0301. Applies to:

Contractors engaged in the installation, service and repair of:

- Lawn type sprinkler systems;
- Agriculture sprinkler and irrigation systems, including above or below ground;
- New landscape construction or renovation projects;
- Invisible fence installation, which is used to confine animals within a given area;
- Paver stone installation projects such as, but not limited to: Driveways, walkways, patios and pool decks. Common types of pavers used include brick, concrete and stone.

Common methods of paver installation include:

- **Interlocking concrete pavers**, which are primarily sand set, but in some cases mortar set;
- **Permeable interlocking concrete pavers**, which are installed to help reduce stormwater runoff;
- **Pedestal set pavers**, when used for roof top decks and plaza areas to increase living space, or to meet certain environmental requirements (not acting as a roofing system).

Work contemplated by this classification includes, but is not limited to:

- Producing preliminary drawings of a landscape or renovation project;
 - Identifying area of land to be covered, to determine size and amount of pipe and sprinkler heads needed for irrigation/sprinkler system install;
 - Preparing the ground (may include tilling and spreading of top soils);
 - Trenching;
 - Burying wire in trench (invisible fencing);
 - Connecting low voltage transmitter box for invisible fencing;
 - Installing/repairing sprinkler systems;
 - Planting trees, plants or shrubs;
 - Planting or replacing grass from seed or sod;
 - Installing ground cover material or plastic to retard weeds;
 - Placing concrete borders;
 - Installing concrete, brick or stone pavers to create walkways, pathways, pool decks, or patios.
- Typical machinery includes, but is not limited to:
- Electric power tools;
 - Fertilizer spreaders;
 - Hand tools/rakes;

- Mowers;
- Small front end loaders;
- Tractors with till attachments;
- Trenchers;
- Wheelbarrows;
- Vibrating plow or pipe pulling machine.

This classification includes:

- Incidental construction of rockery, extruded concrete curbing, fences, ponds, walls, arbors, trellises and gazebos when performed by employee of a landscape contractor as part of a landscape contract.

- If these activities are conducted separately from a landscape contract and not part of a landscape project, they must be reported separately in the classification applicable to the work being performed.

- Incidental construction of walls and rockery performed by employees of a paver stone installation contractor as part of a paver installation contract.

- If these activities are conducted separately from a paver stone installation contract and not part of a paver stone project, they must be reported separately in the classification applicable to the work being performed.

Note: Incidental work is a minor part of an overall project or contract.

Example: A ((paving)) paver installation company creates the driveway, walkways, and patio at a residential home. The company finds that the lawn will slide onto the driveway unless a three foot tall retaining wall the length of the driveway is created. The creation of the retaining wall to protect the driveway is *incidental* to the ((paving)) paver installation project and may be reported in **0301**.

Excluded phases of work:

- Worker hours engaged in open canal type irrigation systems, which are classified in **0108**.
- Worker hours engaged in maintenance and cleaning of lawn sprinkler system pipes and heads done in connection with a landscape maintenance contract which are classified in **0308**.
- Worker hours engaged in grading, clearing, or contouring of land which are classified in **0101**.
- Worker hours engaged in bulkheads not adjacent to water, or similar structures built of rock, which are classified in **0302**.
- Worker hours engaged in installation or on-site maintenance of roofing materials composed of impermeable barriers, sod, soil, and plants, sometimes termed landscape roofing, living roofing, or vegetative roofing, which are classified in **0507**.
- Worker hours engaged in paver installation on a roof by a roofing contractor, when acting as part of the roofing system, which are classified in **0507**.
- Worker hours engaged in installation or maintenance of a landscape roofing irrigation system, which are classified in **0507**.
- Worker hours engaged in lawn care maintenance or chemical spraying or fumigating which are classified in **0308**.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

For administrative purposes, classification 0301 is divided into the following subclassifications:

0301-04 Lawn type sprinkler systems: Installation, service or repair

0301-06 Agricultural sprinkler/irrigation systems, N.O.C.: Installation, service or repair

0301-08 Landscape construction operations, N.O.C.

AMENDATORY SECTION (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

WAC 296-17A-1002 Classification 1002.

1002-00 Sawmills: Operation and maintenance

Applies to establishments engaged in the operation and maintenance of a sawmill. Sawmills receive raw logs which they usually store temporarily in their yard before cutting them into rough and finished lumber. This classification includes operations such as, but not limited to, loading raw logs onto the conveyor or log slip; sawing logs with a variety of head, cut-off, circular or band saws; grading and sorting lumber; drying green (wet) lumber; and the stacking and storing of lumber. The raw logs are cut into rough lumber, such as cants and blocks, or into finished lumber, such as posts, planks or boards.

This classification excludes all operations conducted in the woods, such as logging or use of a portable sawmill, which is to be reported separately in classification 5001, and establishments engaged *only* in the manufacturing of wood, veneer, veneer products, or lumber remanufacturing which is to be reported separately in the classification applicable to the manufacturing being performed.

1002-08 Shake and shingle mills - Automated process (to be assigned by classifications underwriter)

Applies to establishments operating an automated shake and shingle mill which manufacture shakes, shingles and/or ridge caps using automated processes. For purposes of this classification, automated processes refers to shake and shingle mills equipped with automatic feeders on all saws, adjustable packing and cutting stations, and fully automatic systems for conveying material to work stations. All equipment must be equipped with automatic shut off switches. Within a shingle mill the operation of a trim saw must be performed by an individual as a separate function from that of the shingle saw operator (shingle sawyer is not to perform both functions). Shake splitters must be equipped with a gauge control mechanism which permits the operator to automatically set the thickness of the cut. Conveyor systems must have dual controls to allow the deck man and sawyer the ability to control incoming material to the work station.

Block mills must be equipped with an automated pallet dump to eliminate the handling of material to the sawyer work station or an adjustable scissor lift adjacent to the shingle saw or shake splitter. Blocked wood purchased by mills must be contained in pallets prior to entering the mill yard or premises. Log mills must be equipped with a fully mechanized log slip (used to move logs into the deck area), log levelers, stabilizers, and lifters must be present in the deck area, automatic deck cut-off saw, live deck for moving material from the deck to the splitting area and overhead mounted splitters. Trim saws, also referred to as clipper saws, must be equipped with a laser guide or quartz light. This lighting

reveals to the operator where its saw blade is in relationship to the material being processed.

For purposes of this classification, the following terms or words shall be given the meanings below:

Automatic deck or cut-off saw: A large saw, usually circular, used to trim logs to a specified length (rounds) before they enter a manufacturing plant.

Clipper saw: A machine used to make shingle edges parallel.

Shingle: Roofing or siding material having sawn faces and backs, are of a standard thickness at the butt end and tapered finish at the other end.

Shake: Roofing or siding material having at least one surface with a natural grain textured split surface.

Live deck: A chain driven platform located in the same proximity as the deck saw and is used to convey cut rounds from the cutting area to the splitting area.

Log stabilizer: A levered device adjacent to the deck saw used to hold the log steady while it is being cut.

Log slip: A chain driven conveyor used to move logs into the deck area.

Laser or quartz guide light: An overhead mounted light above a saw that illuminates that portion of a work surface where the saw blade will pass or make a cut.

Log leveler: A levered device adjacent to the deck saw used to level a log automatically.

Overhead splitter: A ceiling mounted hydraulic, air, or electrically operated apparatus with wedge shaped end that is used to split log rounds into block wood when activated by the splitterman.

Shingle saw: A machine used to make shingles.

Shake splitter: A machine used to split blocks into shake blanks.

Shake saw: A machine used to saw shake blanks into a finished wedged shaped product.

This classification excludes all operations conducted in the woods, such as logging or the cutting and splitting of shake or shingle bolts, which are to be reported separately in classification 5001.

Special notes: Shake and shingle mills not meeting all the conditions as set forth above shall be reported separately in classification 1005 "shake and/or shingle mills(= N.O.C.)."

AMENDATORY SECTION (Amending WSR 15-02-060, filed 1/6/15, effective 7/1/15)

WAC 296-17A-1007 Classification 1007.

1007-08 Geophysical exploration, N.O.C.

Applies to contractors engaged in geophysical exploration, with no core drilling, and without ((~~seismatic~~) seismic detection, who are not covered by another classification (N.O.C.). The more common methods of geophysical exploration are gravitational, electric and magnetic. In the gravitational method, delicate pendulums and torsion balances capable of detecting differences in the gravitational pull of the earth at various places enable the geologist to tell where oil is likely to be found. There are two electrical methods, resistivity and inductive. In the resistivity method, measurements are taken on an ohmmeter, which indicate the resistivity of the

subsurface. The inductive method is somewhat comparable, but instead of determining the resistivity of the subsurface formations, the conductivity is measured enabling the geologist to determine the character of the subsurface being studied. The magnetic method is accomplished by means of a highly developed form of magnetic dipping needle with a telescope rocks magnifier. The magnetic attraction exerted by magnetic rocks and formations causes the needle to deflect from its horizontal plane, thereby enabling a geologist to develop contour maps with lines of equal magnetic attraction. This classification includes prospectors who may specialize in particular instrumentation such as electrical, gravity, magnetic or seismic. The prospector studies structure of subsurface rock formations to locate petroleum deposits; conducts research using geophysical instruments such as seismograph, gravimeter, torsion balance, and magnetometer, pendulum devices, and electrical resistivity apparatus to measure characteristics of the earth; computes variations in physical forces existing at different locations and interprets data to reveal subsurface structures likely to contain petroleum deposits; and determines desirable locations for drilling operations. This classification includes prospecting for mineral ores and the testing of soil for percolation when performed by employees of an employer subject to this classification.

This classification excludes core drilling and seismic geophysical exploration which are to be reported separately in classification 0103, and geophysical crews employed by oil companies who are to be reported in the classification applicable to the business.

Special note: When assigning classifications 1007-08, 4901-16 - Geologists, and 0103-10 - Seismic geophysical exploration, care must be taken to look beyond the word "geologist" to determine the actual nature of the activities being performed.

1007-09 Testing and inspecting of pipelines or utility lines using radiographic, video, infrared thermography or X-ray analysis process by contractor at industrial plants or construction sites

Applies to establishments engaged in the testing or inspecting of pipelines, utility lines or conduits for others, provided the testing or inspecting is not performed in conjunction with the construction of the pipeline. This classification includes testing or inspecting involving radiographic, video, infrared thermography or X-ray analysis processes such as the X-raying of containers, inspecting of utility lines, and the drawing of oil samples on-site when performed by employees of an employer subject to this classification. Classification 1007-09 is assigned primarily to field activities.

This classification excludes testing or inspecting done in conjunction with construction which is to be reported separately in the appropriate construction classification.

1007-15 Inspection and grading bureaus, N.O.C.; log scaling and grading bureaus; lumber inspection services; weigh scale attendants, N.O.C.; weather stations; rain-making - No aircraft; air flow/heat balancing and testing

Applies to establishments operating as *inspection and grading bureaus*, not covered by another classification (N.O.C.), including, but not limited to, those involved in inspecting and grading commodities such as logs, lumber,

shingles, shakes, poles, and railroad ties. The commodity is examined and stamped with a grademark which indicates the grade, species, producer's name or number and other pertinent data. A certificate of inspection may be issued in lieu of a grademark. The purpose of the inspection is to grade, tally, and stamp only those products which meet certain required specifications and to cull those products which do not meet the established standards. *Log scaling and grading bureaus* measure the logs, and by applying log rule formulas, determine the net yield, usually expressed in board feet. A scale ticket containing descriptive data is attached to the end of the log. This classification also applies to *weigh scale attendants* not covered by another classification (N.O.C.), when the service is available to the general public, otherwise the weigh scale attendants are to be included in the basic classification of the business. This classification includes establishments engaged exclusively in such services as auto emission control testing, air flow balancing and testing, the balancing and testing of heating, ventilating and air conditioning systems, hydrostatic testing of such objects as boilers, tanks, pipes and fittings using compressed air or water pressure to detect leaks, the strength testing of building material such as, but not limited to, asphalt, concrete and steel; and the testing or inspecting of steel weldments. This classification also includes *weather stations* which observe and record weather conditions for use in forecasting, and which read weather instruments, including thermometers, barometers, and hygrometers to ascertain elements such as temperature, barometric pressure, humidity, wind velocity, and precipitation. Weather data is transmitted and received also from other stations. A fully automated (computerized) weather station can be reported under classification 4904. This classification also covers rainmaking without the use of aircraft.

1007-16 Foresters (to be assigned only by reforestation underwriter)

Applies to:

Foresters engaged in forest management.

Work in this classification includes, but is not limited to:

- Plan and direct forestation or reforestation projects;
- Map forest areas;
- Estimate standing timber, future growth, or manage timber sales;
- Plan cutting programs to assure continuous production of timber;
- Determine methods of cutting and removing timber with minimum of waste and environmental damage;
- Plan and design forest fire suppression and fire prevention programs;
- Plan and design construction of fire towers, trails, roads, and fire breaks;
- Design projects for control of floods, soil erosion, tree diseases, and insect pests;
- Perform tree auditing;
- Perform scientific, tree, forestry, and watershed studies for others; and
- Inspect precommercial thinning layouts or pruning operations.

What activities are not included in this classification?

- Tree auditing services while planting is in process (report in classification 5004); and
- Performing manual labor or direct supervision of manual laborers.

1007-19 Timber cruisers (to be assigned only by reforestation underwriter)

Applies to:

Timber cruisers engaged in cruising timber land to estimate the volume and quality of a timber stand through an on-site visual inspection.

Work in this classification includes, but is not limited to:

- Collecting data concerning forest conditions for appraisal, sales, administration, logging, land use, and forest management planning;
- Traversing forest area on foot in an established pattern and applying sampling technique;
- Recording in a test site the height and diameter of each tree and defects such as rot and bends, to estimate the useable wood in each tree;
- Preparing from data collected a summary report giving the timber types, sizes, condition and outstanding features of an area, such as existing roads, streams and communication facilities; and
- Marking trees with spray paint to denote trails and boundaries, or for cutting.

What activities are not included in this classification?

- Performing manual labor or direct supervision of manual laborers.

1007-21 Environmental and ecological surveyor services, N.O.C.

Applies to establishments engaged in providing environmental and ecological surveying services not covered by another classification (N.O.C.) for others. Environmental and ecological surveying firms typically serve as consultants to industrial or commercial enterprises, governmental agencies or private citizens. Environmental engineer is a term applied to engineering personnel who apply knowledge of chemical, civil, mechanical, or other engineering disciplines to preserve the quality of life by correcting and improving various areas of environmental concern, such as air, soil, or water pollution. Services include identifying and projecting potential environmental impact resulting from proposed projects, assessing the source, severity and extent of environmental damage resulting from human or natural causes, and recommending solutions to protect or regain the natural balance between organisms and their environment. Activities of environmental surveying/consulting establishments include, but are not limited to, locating archaeological sites for preservation, researching and collecting field data on birds and insects, preparing impact statement for landowners and developers, stream and fish monitoring, botanical surveys, wetland surveys, soil and groundwater testing for contamination, air monitoring including industrial hygiene services, monitoring and testing at hazardous waste sites, providing advice on pollution control at its source, and developing a plan for cleaning up already recognized problems such as waste disposal sites, radon or asbestos contamination. Other services provided may include helping clients develop a sys-

tem for complying with various governmental regulations. This classification includes employees of the environmental surveying service who conduct field work as well as those who are assigned to act as project managers or project superintendents to oversee the work of remediation contractors.

This classification excludes all types of remediation work which is to be reported separately in the classification applicable to the type of remediation work being performed, and surveyors employed by construction companies or other types of businesses who are to be reported separately in the applicable classifications.

Special note: When assigning classifications 1007 or 4901, care must be taken to look beyond the words "consulting" or "engineering" to determine the actual nature of the activities being performed.

AMENDATORY SECTION (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

WAC 296-17A-1108 Classification 1108.

1108-02 Glass tempering

Applies to establishments engaged in glass tempering services for others. Operations contemplated by this classification include glass cutting, bending, grinding, beveling, and silvering. Tools and equipment include metal and wood cutting tools and machinery, grinders, sanders, drills, saws, knives, suction cups, putty, caulking, cleaning solvents, forklifts, packing materials, delivery and service vehicles and tempering ovens. The process of glass tempering consists of taking auto or sheet glass which has been purchased from a glass manufacturer or distributor and placing it in a tempering oven. The oven heat realigns the molecular structure of the glass creating added strength, however, the appearance of the glass remains unchanged. This classification includes the sale of accessories for flat glass such as sealants, screening, aluminum frames for storm windows and doors, mirror backings, frames and glass cleaners.

This classification excludes establishments engaged in the installation of glass, mirrors, aluminum or wood window sashes or similar products away from the shop which are to be reported separately in classification 0511; establishments engaged in the manufacture of glass which is to be reported separately in classification 3503; merchants who specialize in selling or installing auto glass which is to be reported separately in classification 1108-04; glass merchants engaged exclusively in flat glass sales which are to be reported separately in classification 1108-03; and combined auto/flat glass merchants with no tempering which are to be reported separately in classification 1108-05.

1108-03 Flat glass merchants - No tempering

Applies to establishments engaged in receiving, storing and selling all types of fabricated glass and (~~plexiglas~~) plexiglass. Glass products include, but are not limited to, window glass, plate glass, safety glass for automobiles, and mirrors. Work contemplated by this classification includes cutting of glass to customers specified dimensions, beveling, buffing, grinding, polishing, silvering of plate glass, and the installation of glass into frames within the shop or adjacent yard. Some dealers may specialize in cutting, selling or

installing fabricated flat glass or they may also sell and install plate, laminated, window, cathedral, stained, bullet proof, opalescent flat, picture, skylight and tempered glass. Most glass dealers will cut glass to order. Tools and equipment include metal and wood cutting tools and machinery, grinders, sanders, drills, saws, knives, suction cups, putty, caulking, cleaning solvents, forklifts, packing materials, delivery and service vehicles. This classification includes the sale of accessories for flat glass such as sealants, screening, aluminum frames for storm windows and doors, mirror backings, frames and glass cleaners.

This classification excludes establishments engaged in the installation of glass, mirrors, aluminum or wood window sashes or similar products away from the shop which are to be reported separately in classification 0511; manufacturing of glass which is to be reported separately in classification 3503; glass merchants who perform glass tempering which are to be reported separately in classification 1108-02; and merchants who specialize in selling or installing auto glass which are to be reported separately in classification 1108-04.

1108-04 Auto glass merchants

Applies to establishments engaged in selling and installing automobile glass in vehicles. In addition to selling and installing new or replacement auto glass, merchants typically repair auto windshield cracks, scratches, bullseyes and breaks. Tools and equipment include metal and wood cutting tools, grinders, sanders, drills, saws, knives, windshield sticks, suction cups, putty, caulking, cleaning solvents, delivery and service vehicles. Solar tinting of auto glass with film to reduce heat and glare may also be performed, as well as selling and installing sun roofs. Auto glass merchants may offer 24-hour emergency service or pickup and delivery. Installation of auto glass, truck glass or boat tops performed in or away from the shop is included within the scope of this classification.

This classification excludes establishments engaged in the manufacturing of glass which are to be reported separately in classification 3503; tinting or the application of tinted plastic film to auto glass by an auto detailer which is to be reported separately in classification 3406; repairing auto windshield cracks, bullseyes and chips by an auto detailer which is to be reported in 3406; glass merchants who perform glass tempering which are to be reported separately in classification 1108-02; glass merchants exclusively dealing in flat glass which are to be reported in classification 1108-03; and combined auto/flat glass merchants with no tempering which are to be reported in classification 1108-05.

1108-05 Combined auto and flat glass merchants - No tempering

Applies to establishments engaged in receiving, storing and selling all types of fabricated glass and (~~plexiglas~~) plexiglass as window glass, plate glass, safety glass for automobiles, mirrors and other types of glass at a permanent shop location or adjacent yard. Work contemplated by this classification includes cutting of glass to customers' specified dimensions, beveling, buffing, grinding, polishing, silvering of plate glass and the installation of glass into frames. Tools and equipment include metal and wood cutting tools and machinery, grinders, sanders, drills, saws, knives, suction

cups, windshield sticks, putty, caulking, cleaning solvents, forklifts, packing materials, and delivery and service vehicles. A glass merchant performing the installation of glass in automobiles is also included within the scope of this classification; as are related services such as, but not limited to, repair of auto windshield cracks, scratches, bullseyes and breaks; in vehicle tinting of auto glass to reduce heat and glare; and installing sun roofs. Other dealers may specialize in cutting, selling or installing fabricated flat glass or they may also sell and install plate, laminated, window, cathedral, stained, bullet proof, opalescent flat, picture, skylight and tempered glass. Included within the scope of this classification is the sale of accessories for flat glass such as sealants, screening, aluminum frames for storm windows and doors, mirror backings, frames and glass cleaners.

This classification excludes establishments engaged in the installation of glass, aluminum or wood window sashes or similar products away from the shop which are to be reported separately in classification 0511; manufacturing of glass which is to be reported separately in classification 3503; tinting or the application of tinted plastic film to auto glass by an auto detailer which is to be reported separately in classification 3406; repairing auto windshield cracks, bullseyes and chips by an auto detailer which is to be reported in 3406; glass merchants who perform glass tempering which are to be reported separately in classification 1108-02; and flat glass merchants who do not sell or install auto glass which are to be reported separately in classification 1108-03.

1108-06 Glass frosting, etching, beveling or grinding

Applies to establishments engaged in shaping and finishing solid glass by cutting, frosting, etching, beveling, grinding, sandblasting, carving, glue chipping, decorating or grooving. Custom items manufactured in this classification include, but are not limited to, video game tops, glass signs, glass used in the assembly of electrical appliances such as microwave ovens, electronically controlled cabinets and display panels, and mirrors of all sizes. Machinery includes diamond or glass cutting saws, diamond or glass grinding wheels and discs, drills, polishing laps, etching tools and other hand tools. In the manufacture of mirrors, metallic solutions (usually silver), shellacs or varnishes, paints, and plate glass are received from outside sources. The glass is cut to size, ground, smoothed, and the edges may be beveled. Hole drilling, chemical etching, drying, buffing and polishing may be performed. Reflective surfaces are generally produced by pouring or spraying metallic solutions over prepared glass. Heavier coats are obtained by successive applications of the plating solution. After applying the plating solution, the mirrors are sprayed or hand brushed with shellac or varnish, then with paint. Frames, handles or similar finishings may be attached. Production manufacturing of insulated glass by sealing together two or more sheets of glass with an air space between them is also included when performed by employees of an employer subject to this classification.

This classification excludes the mining, digging or quarrying of raw materials which is to be reported separately in the applicable classification; glass merchants who do incidental grinding, beveling, silvering and cutting of glass who are to be reported separately in the classification applicable to the type of glass they specialize in; establishments manufac-

turing optical goods or telescopes, or perform precision grinding of blank or rough lenses which are to be reported separately in classification 6604; and establishments engaged in manufacturing stained or leaded glassware, or in melting or blowing glass which are to be reported separately in classification 3503.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-2008 Classification 2008.

2008-01 Warehouses - Field bonded

Applies to establishments engaged in providing bonded warehouse services at the (~~customer's~~) customer's location. Field bonding involves appropriating a warehouse (or portion of one), that is owned by the customer, for the purpose of segregating and securing a portion of that customer's merchandise to be used as collateral for a bank loan. The field bonding company will catalog the merchandise that is involved in the transaction, issue a receipt (the receipt is presented as collateral for the loan), and ensure its security and value for the length of the contract. The field bonding company is not responsible for the maintenance of the facility and doesn't become involved in handling, moving or shipping the goods. Work contemplated by this classification is limited to employees who catalog the goods being held, security guards, and clerical help employed at the secured location.

This classification excludes drivers who are to be reported separately in classification 1102.

Special note: Traditional warehousing establishments (such as those described in classification 2102) may be "bonded" in that they can assure their customers that goods regulated by the Bureau of Alcohol, Tobacco and Firearms, or goods awaiting inspection by U.S. Customs, will remain secured. This type of bonding is similar in that it is an assurance of value and safekeeping, but differs from classification 2008 in that the goods are delivered to, and held at, the warehouse company's own facility.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3101 Classification 3101.

3101-05 Ready mix concrete dealers

Applies to establishments engaged in the mixing and delivery of ready mix concrete for all types of residential and commercial projects such as, but not limited to, foundations, walls, slabs, roadways, driveways, walkways, dams, bridges and swimming pools. Usually, these establishments operate a plant location with a supply of sand, gravel, pebbles, broken stones or slag, and various ingredients to produce bonding adhesives such as cement. The concrete is premixed at the plant location and loaded into a delivery truck, or the raw unmixed ingredients such as cement, sand, gravel, pebbles, broken stones and water are loaded into a concrete truck and mixed in a revolving or rotating drum in transit to the project site. The concrete is discharged from the drum with use of a metal (~~sheet~~) chute or is transferred into the bed of a concrete pump truck for pumping. This classification includes

ready mix dealers who operate concrete ready mix trucks and/or concrete pump trucks as part of the delivery service. This classification also includes the related sale of tools, equipment, and building materials such as bricks or concrete blocks (~~and~~). This classification also includes pit and crusher operations provided all sand and gravel produced is used by the dealer to manufacture concrete mix.

This classification excludes establishments engaged in the commercial production and/or digging of sand, gravel or stone not in connection with a ready mix dealer which is to be reported separately in classification 0112, and concrete pump truck services not in connection with a ready mix dealer which is to be reported separately in classification 3506.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3102 Classification 3102.

3102-04 ((~~Rock~~) Stone wool insulation: Manufacturing

Applies to establishments engaged in the manufacture of mineral wool insulation from siliceous materials such as, but not limited to, rock, slag, and glass, or combinations thereof. In a special furnace, hot air or steam is blown through molten rock or slag, shredding the material into a mass of fine intertwined fibers to form the wool. To produce fiberglass insulation material, molten glass is drawn at high speeds through orifices, then subjected to jets of high pressure steam which break the glass filaments into fine fibers. The final product, regardless of raw material, may be shipped in granules which are bagged, or formed into flat sheets, cut to size, enclosed in paper or foil, and packaged. Incidental rock, slag, and glass crushing operations are contemplated by this classification.

This classification excludes the digging or quarrying of raw materials which is to be reported separately in the classification appropriate to the work being performed, and the manufacture of asbestos products which is to be reported separately in classification 3104.

AMENDATORY SECTION (Amending WSR 19-17-069, filed 8/20/19, effective 10/1/19)

WAC 296-17A-3402 Classification 3402.

((~~3402-00~~) 3402-02 Pump, safe, scale, auto jack, water meter, air compressor and elevator: Manufacturing or assembly

Applies to:

Businesses that manufacture or assemble pumps, safes, scales, auto jacks, water meters, air compressors, and elevators and associated electronic components.

Work activities include, but are not limited to:

- Welding;
- Machining;
- General mechanical and electrical work;
- Assembly work.

Machinery and equipment used include, but are not limited to:

- Hand tools;
- Lathes;

- Mills;
- Drills;
- Grinders;
- Saws;
- Welders;
- Punches;
- Shears;
- Compression equipment;
- Pressure testers.

Note: Machinery/equipment could be manual or computer numeric controlled (CNC).

Materials used include, but are not limited to:

- Brass screws and rubber washers;
- Metals of all types, gauges, sizes, shapes and dimensions.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Worker hours or businesses installing or repairing safes must be reported separately in classification 0607;
- Worker hours or businesses engaged in installing, servicing or repairing elevators must be reported separately in classification 0602;
- Worker hours or businesses installing pumps must be reported in the applicable classification;
- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-05 Machine shops, N.O.C., job shops, tool sharpening, mobile welding shops, storage battery manufacturing, assembly or repair, multimedia blasting, die casting, and heat treating metal

Applies to:

Businesses with general machine shop operations not covered by another class. This classification also applies to the manufacture, assembly or repair of storage batteries, tool sharpening, multimedia blasting, die-casting and heat-treating.

Work activities include, but are not limited to:

- Tool sharpening;
- Welding;
- Mobile welding shops;
- Machining;
- Multimedia blasting:
 - *Multimedia (such as, but not limited to, glass, plastic and sand) blasting operations which strip paint or other coatings from metal or fiberglass. Most of the blasting operations in this classification are done on automobiles, but it also applies to establishments that perform blasting on items such as, but not limited to, barbecue grills, and cast iron pieces. Multimedia blasting processes in this classification*

are performed in a shop, use less air pressure and media with softer finishes than other blasting operations.

- Die casting:

- Die-casting is a manufacturing process for producing accurately dimensioned, sharply defined metal products, which are referred to as "die castings." "Dies" are the steel molds used to mass-produce the product. The process begins when ingots of various metal alloys are melted in die casting machines. The machine forces the metal into the die under hydraulic or pneumatic pressure. The casting quickly solidifies in the die, and is automatically ejected by the machine, and the cycle starts again. The castings are cleaned by grinding or sanding, which also removes any excess metal "flash." Many die casting manufacturers maintain their own machine shop for making the dies. Die making, when done as a part of die casting operations, is included within the scope of this classification.

- Heat treating:

- Process may use computer numeric controlled (CNC) ovens or furnaces. The oven may heat up to 1200 degrees Fahrenheit and a furnace may heat up to 2000 degrees Fahrenheit. The metal(s) is placed on a platform; the platform is hydraulically moved into the first chamber and the door is automatically closed. At this time, the oxygen is burned from the chamber. Then the second chamber door is opened and the metal enters the oven/furnace. Depending upon the specifications, the heat treating process usually takes six to sixteen hours. When the metal is finished in the heating chamber, it returns automatically to the first chamber. Then the platform lowers and the metals are dipped into a cooling agent. Once the metals are cooled to room temperature the platform rises, the door opens, and the materials are removed. The process is essentially the same without using computer numeric controlled (CNC) heat-treating equipment except that, rather than being hydraulically operated, the machine operators move the metals through the system. Many establishments do not produce a product, but heat-treat a variety of products to customer specifications.

- Storage battery, manufacture, assembly or repair:

- Lead ingots, weighing 20-25 pounds, are melted and poured into a mold or casting machine. After the grids are cooled lead oxide is then pumped onto each side of a grid and cured by baking in an oven of about 300-400 degrees F. The plates are then assembled by placing a negative separator (zinc) between a positive separator (copper), and so forth until there are enough of these cells to form the battery. Next, they are sent to a burning process, the plates are placed into a plastic or hard rubber box-like container and cured for two or three days. The plates are welded together and the top is attached to the body of the battery case with an epoxy glue. Diluted sulfuric acid is added to the battery and then it is put on a charger. The battery is then cleaned and packed for shipping.

Special note: The term "job shop" is an industry term that means the shop will produce products to customer specifications.

Machinery and equipment used include, but are not limited to:

- Mills;

- Lathes;
- Grinders;
- Saws;
- Welding equipment;
- Inspection equipment;
- Material handling equipment;
- Casting machines;
- Burning machines;
- Ovens or furnaces;
- Steel molds;
- Hand tools;
- Air tools;
- Compressors;
- Portable welding equipment;
- Mobile welding equipment.

- Are used exclusively to repair machinery or equipment.

A "mobile shop" in this classification usually means a van or pickup pulling a utility trailer equipped with hand tools, specialty tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location; however, sometimes the broken part is removed and taken back to the shop for repair.

Note: Machinery/equipment could be manual or computer numeric controlled (CNC).

Materials used include, but are not limited to:

- Metals of all types, gauges, sizes, shapes and dimensions;
- Plastics.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Worker hours or businesses sandblasting buildings or structures must be reported separately in classification 0504;
- Worker hours or businesses repairing buildings and structures must be reported separately in the appropriate construction classification;
- Worker hours or businesses doing mechanical repair (such as, on engines or electrical systems) must be reported separately in the classification applicable to the work being performed;
- Manufacturing dies for others, is classified in 3402-74;
- Manufacturing dry cell (flashlight type) batteries, is classified in 3602;
- Battery sales and installation, are classified in the applicable automotive services classification;
- Activities away from the shop or plant must be reported separately in the applicable classification, with the exception of mobile welding operations.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-06 Power saw, lawn and garden equipment, small motor, N.O.C: Repair

Applies to:

Businesses that repair small power tools, small motors powered by gas or diesel, outboard marine engines, and lawn and garden equipment not covered by another classification (N.O.C.).

Machinery and equipment used include, but are not limited to:

- Hand and air tools.

Classification 3402-06 is assigned in conjunction with a store classification for establishments that have a store operation and repair the type of items they sell. Classification 3402-06 may also be assigned to a manufacturer representative who performs warranty repairs.

This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Worker hours or businesses repairing electrical motors are classified in 5201;
- Activities away from the shop or plant which must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-14 Furnace, heater, radiator, wood, propane, or pellet stoves: Manufacturing

Applies to:

Businesses that manufacture furnaces, radiators, wood, propane, or pellet burning stoves or similar heating fixtures.

Machinery and equipment used include, but are not limited to:

- Hand tools;
- Solder guns;
- Punches;
- Lathes;
- Saws.

Note: Machinery/equipment could be manual or computer numeric controlled (CNC).

Materials used include, but are not limited to:

- Sheet metal;
- Plate metal;
- Aluminum;
- Stainless steel.

Note: Establishments in this classification may have separate areas for electronic assembly and/or painting.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Manufacturing radiators for automobiles or trucks, is classified in 3402-48;
- Manufacturing baseboard heaters, is classified in 3404;

• Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-26 Saw blade and abrasive wheel: Manufacturing, assembly or sharpening

Applies to:

Businesses that manufacture abrasive wheels, and businesses that manufacture, assemble, or sharpen saw blades such as, but not limited to, those used in circular saws, band saws, rip-saws, keyhole saws, and handsaws such as hacksaws or meat saws.

Abrasive wheel manufacturing operations often include a laboratory where carbon and other materials are mixed together to form the abrasive edges of the wheels.

Note: Businesses in this classification may also perform incidental sharpening services for items such as, but not limited to, tools, scissors, and knives.

Machinery and equipment used include, but are not limited to:

- Saws;
- Mills;
- Drills;
- Hand tools.

Materials used include, but are not limited to:

- High tensile steel;
- Carbide tipped blades.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Repair or sharpening of chain saws, is classified in 3402-06;
- Manufacture or repair of electrical saws, is classified in 5201;
- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-29 Nut, bolt, screw, nail, tack, rivet, eyelet spike, needle, bedspring, wire mattress, N.O.C.: Manufacturing; sprinkler head, speedometer, carburetor: Manufacturing or assembly

Applies to:

Businesses that manufacture nuts, bolts, screws, nails, tacks, rivets, eyelets, spikes, needles, bedspring, and wire mattresses not covered by another classification. N.O.C. This classification also applies to businesses that manufacture or assemble sprinkler heads, speedometers, or carburetors. Rebuilding carburetors is also included in this classification.

The carburetor rebuilding may be performed on vehicles that are driven or towed into the shop, or on carburetors that have been already removed from the vehicles.

Businesses in this classification may have separate areas for deburring, inspecting, packing and shipping.

Machinery and equipment used include, but are not limited to:

- Saws;
- Shears;
- Presses;
- Chuckers;
- Threading and tapping machines;
- Hand tools;
- Air tools;
- Diagnostic scopes;
- Drill press;
- Coiling machines;
- Ovens.

Note: Machinery/equipment could be manual or computer numeric controlled (CNC).

Materials used include, but are not limited to:

- Steel rods;
- Iron rods;
- Small component parts;
- Wire.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Manufacturing stuffed mattresses, is classified in 3708;
- Manufacturing handles, latches, and hinges, is classified in 3404;
- Repair of speedometers or carburetors in a vehicle, is classified in the appropriate vehicle repair classification;
- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-40 Welding or cutting, N.O.C. (mobile operations limited to repair of equipment and machinery)

Applies to:

Businesses doing welding or metal cutting not covered by another classification (N.O.C.) either in the shop or at the customer's site.

Machinery and equipment used include, but are not limited to:

- Welding equipment;
- Grinders;
- Saws;
- Drills;
- Material handling equipment.

Materials used include, but are not limited to:

- Steel;
- Aluminum alloys.

This classification also includes "mobile shops" which are used *exclusively* to repair machinery or equipment. A "mobile shop" in this classification usually means a van or pickup pulling a utility trailer equipped with hand tools, specialty tools, air tools, a compressor, and a portable welding unit. The machinery or equipment is usually repaired at the customer's location, sometimes with the use of the customer's equipment; however, broken parts may be removed and taken back to the shop for repair.

Exclusions:

- Worker hours or businesses doing welding construction or repairs to buildings or structures must be reported separately in the classification applicable to the work being performed;
- Worker hours or businesses doing mechanical repairs (such as, on engines and electrical systems) must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-48 Automobile or truck, radiator and heater core: Manufacturing and repair shops

Applies to:

Businesses that manufacture and/or repair automobile or truck radiator and heater cores.

Work activities in this classification include, but are not limited to:

- Repair of radiators in the vehicle, or removed from vehicle;
- Radiators cleaned, air pressured, and dipped in water tank to check for leaks;
- Leaks repaired by welding the holes shut;
- Radiators dipped again to ensure the repair has been made properly;
- Cleaning radiator by sandblasting, ultra sound baths or "rodding" the radiator to remove corrosion.

Note: Manufacturer in this classification may have a die casting area and a separate electronic assembly area.

Machinery and equipment used include, but are not limited to:

- Hand tools and air tools;
- Solder guns;
- Punches;
- Welders;
- Dipping tanks;
- Hoists;
- Forklifts.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

• Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-74 Tool: Manufacturing, not hot forming or stamping; machine finishing tools, die: Manufacturing ferrous

Applies to:

Businesses doing tool manufacturing or die manufacturing, for others, from ferrous materials.

Products manufactured include, but are not limited to:

- Jigs;
- Fixtures and dies for metal work;
- Wrenches;
- Screw drivers;
- Hammers;
- Torque wrenches;
- Pliers;
- Sockets;
- Cutting tools used in lathes, mills, rotors and saws.

Machinery and equipment used include, but are not limited to:

- Air and hand tools;
- Polishers;
- Sharpeners;
- Grinders;
- Inspection equipment;
- Mills;
- Lathes;
- Shapers;
- Sharpeners;
- Drill presses.

Note: Machinery/equipment could be manual or computer numeric controlled (CNC).

Businesses may have a galvanizing and/or electroplating area for the finish work, which is included when performed by employees of employers subject to this classification.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Tool forging by hot forming or stamping is classified in 5106;
- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-77 Auto, truck, semi-trailer and bus body: Manufacturing; travel trailer body: Manufacturing or repair; automobile or motorcycle: Manufacturing or assembly

Applies to:

Businesses that manufacture auto, truck, and bus bodies, or that manufacture or repair travel trailer bodies or cargo containers, or that manufacture or assemble automobiles or motorcycles.

Work activities include, but are not limited to:

- Welding operations;
- Using cutting torches;
- Operating milling, cutting and turning machines;
- Assembly operations performed with air and hand tools;
- Repair or replace hydraulic units;
- Shops may have a finish sanding area as well as a paint area where the vehicle bodies are sprayed with primer, a body bonding material, or a finish coat of paint.

Machinery and equipment used include, but are not limited to:

- Welders;
- Cutting torches;
- Air or hand tools;
- CNC machinery (computer numeric controlled);
- Saws;
- Grinders;
- Drill presses;
- Shears;
- Breaks;
- Hydraulic presses;
- Iron workers;
- Grinders;
- Hoists;
- Cranes and forklifts.

Materials used include, but are not limited to:

- Steel or aluminum, varying in thickness, 16 gauge to plate metal up to one inch thick;
 - Shapes include sheet metal, tubes, solid rod or I-beams.
- This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-85 Auto or truck parts; machining or rebuild not in vehicle

Applies to:

Businesses that machine or rebuild auto or truck parts that are not in the vehicle.

Products manufactured include, but are not limited to:

- Water pumps;
- Fuel pumps;
- Transmissions;
- Heads;

- Brake drums;
- Ball joints;
- Rear ends;
- Sockets;
- Pulleys;
- Shafts;
- Fittings;
- Flywheels;
- Bearings.

Machinery and equipment used include, but are not limited to:

- Mills;
- Lathes;
- Grinders;
- Sanders;
- Presses;
- Welders;
- Balancing equipment.

Note: Machinery/equipment could be manual or computer numeric controlled (CNC).

This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Manufacturing or rebuilding auto, truck, or aircraft engines are classified in 3402-86;
- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-86 Auto, truck, or aircraft engine, N.O.C.: Manufacturing or rebuilding

Applies to:

Businesses that manufacture or rebuild auto, truck, or aircraft engines not covered by another classification (N.O.C.), including manufacturing the component parts.

Note: The basic difference between automobile, truck, and aircraft engines is the size and weight of the parts worked on.

Work activities include, but are not limited to:

- Use specialized machines and air tools to tear the core down to an engine block;
- Rebuild the engine;
- After engine is stripped down to the engine block, it is placed in a machine called a baker which heats to approximately 600 degrees and bakes away the grease;
- After baking, the engine block is placed in a sand blaster where the surface is cleaned with very fine steel shot;
- Engine block is then placed in a large pressure washer which removes the steel shot;
- Crank and shafts are ground and turned on machinery similar to lathes;
- Heads and valves are machined on valve grinders, valve facers, and head grinders. Shops that do not have equipment to grind the crank and camshafts will contract work out to other shops, or buy new crank and camshafts.

Machinery and equipment used include, but are not limited to:

- Baker machines;
- Sand blasters;
- Pressure washers;
- Lathes;
- Valve grinders;
- Valve facers;
- Head grinders;
- Boring bars;
- Hones;
- Solvent tanks;
- Hoists;
- Forklifts.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Machining or rebuilding auto or truck parts is classified in 3402-85;
- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-94 Precision machined parts, N.O.C.: Manufacturing, gear: Manufacturing or grinding, small arms and ammunition: Manufacturing, assembly or rebuild, valve: Manufacturing

Applies to:

Businesses that manufacture precision-machined parts not covered by another classification (N.O.C); that manufacture or grind gears, that manufacture, assemble or rebuild small arms (.50 caliber or less), that manufacture or reload ammunition, or that manufacture valves.

Note: Most precision machine establishments are "job shops." Job shops make component parts for other businesses according to customer specifications, rather than manufacturing a specific product.

Work activities in this classification include, but are not limited to:

- Machining;
- Grinding gears;
- Metal stamping of casings;
- Assembly;
- Inspecting;
- Cutting key slots and broaches.

Products manufactured include, but are not limited to:

- Precision parts for aerospace/medical industry;
- Gears;
- Pistols;
- Rifles;
- Shotguns;
- Light machine guns;

- Valves (regulate the flow of air, gas, liquids, or loose material through structures by opening, closing or obstructing passageways. They operate manually, electronically, with compressed air, or hydraulic pressure);

- Other types of precision parts.

Machinery and equipment used include, but are not limited to:

- Manual and CNC (computer numeric controlled) mills and lathes;
- Water jet machines;
- Saws;
- Drill press/drills;
- Grinding machines;
- Gear shapers;
- Hobbers;
- Other types of CNC machinery.

Materials used include, but are not limited to:

- Steel;
- Stainless steel;
- Aluminum;
- Titanium;
- Inconel;
- Plastics;

• Shapes include; solid blocks, flat bar, tube, angle stock.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Manufacturing or repairing of heavy arms is classified in 5109;
- Gun stores are classified in 6309;
- Manufacturing valves made in a die mold is classified in 3402-74;
- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

3402-98 Machinery, N.O.C.: Manufacturing or assembly

Applies to:

Businesses that manufacture or assemble machinery not covered by another classification (N.O.C.).

Finished products vary widely and range from hand held machines to those weighing thousands of pounds. For the purpose of this classification, machinery means any combination of mechanical parts constructed primarily with metal and associated electronic components.

Work activities in this classification include, but are not limited to:

- Cutting;
- Welding;
- Forming;
- Drilling;

- Riveting;
- Clamping and bolting;
- Machining.

Note: Manufacturers in this classification may have a separate electronic assembly area.

Machinery manufactured or assembled include, but are not limited to:

- Grinding machines;
- Boring machines;
- Conveyor systems;
- Wood chippers;
- Printing or bookbinding machinery;
- Confectioners or food processing machinery;
- Photo processing machinery (photo processors or film enlargers);
- Shoe or textile machinery;
- Office machinery (copiers, collators, mail/postage machines, calculators and automated letter openers);
- Cash registers;
- Sewing machines.

Machinery and equipment used include, but are not limited to:

- Lathes;
- Mills;
- Breaks;
- Shears;
- Welders;
- Presses;
- Binding machinery;
- Drills;
- Saws;
- Water jets;
- Hand and air tools.

Note: Machinery/equipment could be manual or computer numeric controlled (CNC).

Materials used include, but are not limited to:

- Metal in varied sizes, shapes and dimensions;
- Plastic;
- Wood.

This classification includes the repair of items being manufactured or assembled when done by employees having operations subject to this classification. This is a shop or plant only classification and includes work performed in an adjacent yard when operated by an employer having operations subject to this classification.

Exclusions:

- Worker hours or businesses setting-up, installing or repairing printing, bookbinding, confectioners, or food processing machines must be reported separately in 0603;
- Worker hours or businesses installing or repairing shoe or textile machinery must be reported separately in 0603;
- Activities away from the shop or plant must be reported separately in the applicable classification.

Note: For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-3506 Classification 3506.

3506-02 Mobile crane and hoisting services; Rigging contractors, N.O.C.

Applies to establishments engaged in mobile crane and hoisting services and rigging contractors not covered by another classification (N.O.C.). There are many types of cranes and derricks, both stationary and nonstationary. A mobile crane is a tire-mounted machine for hoisting and moving heavy objects by cables attached to a moveable boom. Rigging consists of a system of ropes, chains, cables, or tackle used for support. Generally, these types of establishments respond to and service customer requests such as righting an overturned tractor trailer, hoisting a large bell, or placement of a satellite dish on top of a building. In addition, mobile crane businesses often maintain a variety of nonmobile cranes and derricks such as those used for construction of tall buildings or structures. This classification includes transporting of a nonmobile crane or derrick to and from a customer site, but excludes the set up or erection, operating, and disassembling of the unit.

This classification excludes the construction or erection of permanent nonmobile cranes (such as those permanently mounted at a manufacturing plant or seaport to load cargo) which are to be reported separately in classification 0508; and the set up, erection, operating, and disassembling of cranes, hoisting devices or rigging in connection with work covered under a construction classification which are to be reported separately in the construction classification applicable for the work being performed.

Special note: This classification includes mobile crane and hoisting businesses when providing a service at a construction site such as lifting an air conditioning unit to a building top, and provided the crane operator is an employee of the crane and hoisting business.

3506-03 Concrete pump truck service

Applies to establishments engaged in concrete pump truck services, including the pump truck control box operator. A concrete pump truck is a large vehicle equipped with an adjustable boom spanning approximately 65' in length equipped with a flexible 4" hose running alongside the boom. This type of vehicle is different from a concrete ready mix truck which mixes the concrete in a rotating or revolving drum prior to arriving at the project site and discharges the mix with use of a metal (~~shoot~~) chute. A concrete pump truck is designed to pump concrete into areas which are difficult for a concrete ready mix truck to reach such as a tall retaining wall, the foundation of a building or structure many feet below ground level, or into an area with limited access. Concrete is fed into the bed of the pump truck (usually by a ready mix concrete truck). The driver of the pump truck also operates the control box which adjusts the boom and amount of concrete mix to discharge. The control box operator receives instructions from a construction worker overseeing the concrete pour.

This classification excludes ready mix concrete dealers who deliver concrete who are to be reported separately in classification 3101 and all other concrete construction activi-

ties occurring at the project site which are to be reported separately in the classification applicable to the construction work being performed.

Special note: This classification is limited to the concrete pump truck driver and operation of the control box. Construction workers at the project site, such as workers who are positioning and repositioning the end of the boom which discharges concrete, or workers who provide instructions with use of a headset to the control box operator, or workers who are spreading the concrete as it is poured, are to be reported separately in the classification applicable to the construction work being performed.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-4910 Classification 4910.

4910-00 Property management services

Applies to establishments engaged in managing their own property or properties owned by others. Properties include, but are not limited to, privately owned residential or commercial buildings, malls, apartment or condominium complexes, mobile home parks, halls, and conference rooms. Typical operations contemplated by this classification include, but are not limited to, management duties, advertising, showing vacant units to prospective tenants, collecting rent, providing security, and normal maintenance and repair when conducted by employees of employers subject to this classification. Normal maintenance and repair contemplated by this classification includes replacing parts on existing fixtures or equipment, repairing existing structures, normal cleaning or janitorial activities, maintaining existing landscaping, and shoveling snow from driveways or walkways. Construction, alteration, or improvements to the properties are *not* considered normal maintenance and are *not* contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the property management business. *Apartment or condominium complexes and mobile home parks* may have common areas such as, but not limited to, laundry facilities, community rooms, tennis courts, exercise rooms, swimming pools, saunas or hot tubs, and playgrounds or small park areas. Common areas are maintained by employees of the complex or park owner or by the property management service. Residents of mobile home parks are usually responsible for maintaining their own mobile homes and their immediate space.

This classification includes homeowners' associations where residents in a housing development pay annual fees which cover the maintenance of lawns, paths, sprinkler systems, and common areas such as pools, activity centers, and tennis courts by employees of the homeowners' association.

This classification excludes employees engaged exclusively in clerical duties who are to be reported separately in classification 4904; employees engaged exclusively in sales duties such as collecting rents, showing and advertising the facility, conducting auctions, or in a combination of clerical and sales duties who are to be reported separately in classification 6303; establishments providing janitorial services exclusively which are to be reported separately in classification 6602; contractors engaged in mobile home set up or

removal who are to be reported separately in classification 0517; any new construction or alteration work performed by employees of employers subject to this classification which is to be reported separately in the applicable construction classification; establishments that contract to perform maintenance or repair, but have no responsibilities in the management of the property, which are to be reported separately in the applicable classification; and lodging or food serving operations which are to be reported separately in the applicable classification.

4910-01 Chimney cleaning - Residential and commercial buildings

Applies to establishments engaged in providing chimney cleaning services to residential and commercial customers, such as restaurants and hotels. Workers who perform chimney cleaning services are commonly referred to as "chimney sweeps" and usually work alone or as a two-person team. When working as a team, one "sweep" works inside (~~the house~~) and the other works on the roof. The methods of cleaning vary. To protect the floors and furniture, drop cloths are placed in front of the fireplace and taped over the opening. The vertical drop cloth may have a "boot" or slit in it which allows rods to be pushed through. Various brushes, usually wire, are attached to extension rods and worked up and down the flue to dislodge the soot and creosote. Creosote deposits may be removed also with a chimney bar, which is a pipe-like instrument with a chisel end, or by using metal scrapers. Where the chimney top is protected from the rain by a hood or cap, it may not be possible to insert the brushes into the opening; a chain or weight may be lowered and swung back and forth inside the chimney. Some sweeps have custom-made vacuum trucks with large collection chambers to collect the soot. In addition to cleaning the chimney flue and fireplace, some sweeps clean oil, gas and coal burning furnaces, repair chimney and flue linings, remove animals from chimneys, and offer other related services. Repairs included in this classification are limited to such activities as caulking around the flashing and sealing brickwork.

This classification excludes establishments engaged in industrial (~~or commercial~~) chimney or smokestack cleaning services which are to be reported separately in classification 0508; contractors engaged in chimney reconstruction or new construction made of masonry or brick who are to be reported separately in classification 0302; contractors engaged in the installation of sheet metal stove pipe who are to be reported separately in classification 0307; and the installation of a new lining in the chimney which is to be reported separately in the applicable classification.

4910-02 Mini-storage facilities

Applies to establishments engaged in operating mini-storage facilities. Mini-storage facilities are usually fenced and entry is through a locking gate through which owners and renters of units are provided access. The units range from lockers to rooms of various sizes; once the unit is rented, the tenant or owner has sole access to it. Typical operations include, but are not limited to, management or clerical duties, renting or selling storage units to others, providing security, and normal maintenance and repair when performed by employees of employers subject to this classification. Normal

maintenance and repair contemplated by this classification includes replacing parts on existing fixtures or equipment, repairing existing structures, normal cleaning of public areas, controlling rodents and other pests, maintaining existing landscaping, and shoveling snow from driveways or walkways. Construction, alteration, or improvements to the properties are *not* considered normal maintenance and are *not* contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the storage facilities.

This classification excludes employees engaged exclusively in clerical duties who are to be reported separately in classification 4904; employees engaged exclusively in sales duties or in a combination of clerical and sales duties who are to be reported separately in classification 6303; and new construction or alteration work which is to be reported separately in the applicable construction classification.

4910-03 Temporary signs - Placement or removal

Applies to establishments engaged in placing or removing temporary yard signs such as, but not limited to, real estate signs for real estate offices or property management firms and campaign signs. The smaller signs are usually mounted on a metal rod which is pounded into the ground to a depth of about 18". A post hole digger may be used to dig holes for larger signs that require a more sturdy post.

This classification excludes all other types of sign installation, painting or repair which are to be reported separately in the applicable classification.

AMENDATORY SECTION (Amending WSR 09-16-109, filed 8/4/09, effective 10/1/09)

WAC 296-17A-5307 Classification 5307.

5307-00 State government employees - N.O.C.

Applies to state government employees not covered by another classification (N.O.C. - not otherwise classified). This is the basic state agency classification which covers employees who have duties that support the mission of the agency and have field or hazardous exposure. For purposes of this classification field or hazardous exposure is defined as any work which involves "hands on" work. Employees reported in this classification may have jobs that include, but are not limited to, performing manual labor or supervising a work crew performing manual labor, work in the trades, construction-type work or maintenance/repair work, operating machinery or equipment, stores/stock clerks, warehouse, supplies, deliveries, food services, facilities, recreational, or general security staff with no law enforcement duties. This classification also includes, but is not limited to, personnel such as engineers, inspectors, and biologists, who have field exposure. This classification includes supervisors who work at a field site and perform supervision duties in the field. This classification includes nonpatient care employees in state operated homes, schools, detention or correctional facilities not described in another classification.

This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.

This classification excludes:

- Employees who have law enforcement power in any capacity, who are to be reported separately in classification 7103;
- Juvenile rehabilitation custody staff at institutions or homes who are to be reported in 5307-01;
- Administrative employees with field duties who are to be reported separately in classification 5300;
- Clerical and administrative office personnel who are to be reported separately in classification 4902;
- Employees who work in state hospitals, homes, schools, detention or correctional facilities who are not otherwise classified and provide care and treatment for patients or residents who are to be reported separately in classification 7201;
- Employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program who are to be reported in classification 7200;
- Employees who provide patient or health care at state-operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program who are to be reported in classification 7400;
- Volunteers are to be reported in classification 6901; and
- Law enforcement volunteers in classification 6906.

5307-01 State government employees - Juvenile rehabilitation custody

Applies to employees of the ~~((department of social and health services (DSHS)))~~ department of children, youth, and families at juvenile institutions and juvenile residential community facilities. Employees in this risk classification may preserve order, provide security, and have the authority to detain, revoke privileges, or impose sanctions. Other work may include, but is not limited to, providing counseling, conducting assessments, rehabilitation, coordination of services, evaluations, and transporting detainees.

This classification excludes:

- Employees who do not have custody or security duties;
- Employees who perform parole duties such as those performed by a regional office, which are away from a juvenile institution or a juvenile residential community facility who are to be reported in 5300; and
- Employees who direct athletic and recreational activities who are to be reported in 5307-00.

See classifications 4902, 5300, 5307, 7200, 7201, and 7400 for all state government operations.

AMENDATORY SECTION (Amending WSR 19-11-109, filed 5/21/19, effective 7/1/19)

WAC 296-17A-6411 Classification 6411. Retail store operations limited to providing any combination of the following merchandise, supplies, or services:

- All types of phones;
- Beads;
- Books, newspapers, magazines, and comic books;
- Cameras;
- Cards (greeting, post, and sports);

- Cosmetics and fragrances;
- Laptops, electronic notebooks and pads, and other small electronic devices;
- Musical instruments (string, wood, brass, wind, and percussion);
- Photography and darkroom supplies;
- Records, music discs, tapes, videos, video games, and software disks;
- Small or portable entertainment players (or parts of player), radios, for homes, offices, or automobiles;
- Smoking accessories and tobacco products;
- Vaporizers and e-liquids;
- Other smaller items, such as playing cards, cups, calendars, puzzles, games, costume jewelry, cosmetics, pencils, pens, notebooks, etc.

Note: Stores in classification **6411** may also carry inventory listed in the scopes language of lower rated store risk classifications, along with the goods listed below, as long as the majority of the merchandise is described by the above list.

Classification 6411 includes:

- Cashiering;
- Cleaning and maintenance of store, storage areas, and associated business offices when performed by store employees;
- Inventory work by store employees;
- Sales of already-prepared snacks, and beverages (for off-site consumption), and/or promotional clothing;
- Parts and batteries for products included in classification **6411**;
- Receiving and returning merchandise at store's loading area;
- Renting items normally sold in classification **6411**;
- Sales work inside store;
- Store security and surveillance;
- Stocking.

Classification 6411 excludes:

- Stores selling merchandise described by a higher rated store classification;
- Delivery drivers who are reported separately in classification **1101**;
- Door to door sales, which are reported separately in subclassification **6309-22**;
- Stores using pallet jacks, fork lifts, conveyors, or other mechanized means of moving merchandise into and within store premises, which are classified in **6406** when merchandise is described by classification **6411** and/or classification **6406**;
- Stand-alone distribution centers or warehouses which are to be reported separately in classification **6407**;
- Repair or installation work, which must be reported separately;
- Sales of pets; see classifications **6406** and **7308**;
- Working at coffee stands, lunch counters, or any on-site food preparation or manufacturing of candy, where employees' hours are to be reported separately in classification **3905**;
- Employees doing custom framing; see classifications **6406** and **6309**;
- Product demonstration services which are to be reported in subclassification **6406-40**;

- Businesses providing inventory services which are to be reported in subclassification **6406-00**;
- Wholesales, reported in classification **6407**;
- High volume warehouse and distribution facilities which are reported separately in classification **6407**.

For administrative purposes, classification **6411** is divided into the following retail store subclassification(s):

6411-00 Stores meeting the criteria for classification 6411, but not specifically described in any other subclassification. N.O.C.

6411-14 Wind, string, brass, and percussion musical instruments

Includes hand held keyboards and music instruction.

Excludes:

- Stores selling pianos and organs, see classifications **6406**, **6309**, and **6306**;
- Repair of instruments, which is reported separately in classification **2906** or **3602**; (if more than one is applicable, assign only the highest rated classification for all repair).

6411-19 Coins, stamps, rare metals, and collectible cards

6411-20 Books, videos, electronic games, music, newspapers, magazines, and comic books

Excludes establishments with coin or token arcades, to be reported in subclassification **6406-00**.

6411-24 Tobacco (~~and marijuana products~~), vaporizers and liquids, and smoking accessories

Excludes:

- Retail stores primarily selling marijuana infused grocery items or marijuana, see classification **6403**;
- Retail bakeries selling a variety of baked goods infused with marijuana; see subclassification **3901-00**.

6411-25 Phones, cameras, electronic tablets, laptops, and notebooks, GPS displays, small stereo components and other small portable electronic devices, N.O.C.

Includes stores and kiosks selling and/or arranging DSL, cable, or dish services for phones, computers, televisions and other devices.

Excludes:

- Stores selling office or school supplies, reported in subclassification **6406-11**;
- Stores selling furniture or furniture kits; see classification **6406**, **6309**, or **6306**;
- Stores providing photo development and printing, see classification **6406** or **6506**;
- Workers performing repair work, which is to be reported separately in classification **3602**.

AMENDATORY SECTION (Amending WSR 15-02-060, filed 1/6/15, effective 7/1/15)

WAC 296-17A-6501 Classification 6501.

Barbers, salons, tattoo shops

Establishments in this classification offer personal grooming and beautification services for their customers. These businesses frequently advertise as a day spa but they do **not** operate baths, soaking pools, or steam rooms.

Employers in this classification offer the following types of services:

- Barber;
- Beauty salon - Cosmetology;
 - Hair styling;
 - Hair removal, electrolysis, laser, threading, waxing;
 - Manicure, pedicure;
 - Esthetician services, facials, skin care, body scrubs;
 - Tanning.
- Tattoo shop;
 - Body art;
 - Body piercing;
 - Permanent cosmetics;
 - Tattooing.

When a business provides multiple services listed above and also offers services such as massage or body wraps, these services are included in classification 6501. Barber and beauty services may also be performed at a customer's home or in hospitals. This classification includes ((#)) clerical office and sales employees of the business.

Excluded from this classification are:

- Businesses providing baths, soaking pools, and hot tubs that also offer services listed in classification 6501 are assigned classification 6204.
- Massage therapy, foot massage, or reflexology businesses that are assigned classification 6109.

Note: Salons in this classification often operate by renting or leasing a booth or station to licensed individuals who are booth renters. Booth renters perform cosmetology, barbering, esthetics, or manicuring services for which a license is required under chapter 18.16 RCW. A booth renter pays a fee for the use of the shop's facility, receives no compensation from the owner, and performs services in the shop, but is not an employee of the shop owner and are exempt from coverage per RCW 51.12.020. These individuals may elect owner coverage.

For administrative purposes, classification 6501 is divided into the following subclassifications:

6501-00 Barber shops

6501-01 Beauty, tanning, and nail salons

6501-02 Tattoo, piercing shops.

AMENDATORY SECTION (Amending WSR 09-20-039, filed 9/30/09, effective 1/1/10)

WAC 296-17A-6601 Classification 6601.

6601-00 Detective agencies

Applies to establishments engaged in providing investigative and related services for others. Services include, but are not limited to, investigating corporate embezzlement and fraud, employee theft, insurance fraud, missing person cases, matrimonial or child custody disputes, conducting background checks, tracking and apprehending fugitives, monitoring burglar or fire alarm systems, or provide polygraph testing or fingerprinting services. Investigative methods include checking public records, conducting interviews, surveillance, and undercover operations. As a general rule, the detective agency provides clients with a final report, which includes documentation, photographs, or videotapes.

This classification excludes establishments engaged in providing customer shoplifting surveillance within retail stores which are to be reported separately in classification 6601-01 and surveillance employees hired as direct employees of a nondetective or security agency who are to be reported separately in the classification applicable to the establishment.

6601-01 Merchant police or patrol

Applies to establishments engaged in providing security services to shopping centers, malls, business parks, banks and other businesses. Services include, but are not limited to, monitoring parking lots and garages, maintaining public security in malls, hospitals, and banks, providing surveillance for theft or shoplifting, and monitoring alarm systems.

This classification excludes detective agencies which are to be reported separately in classification 6601-00 and security guard services which are to be reported separately in classification 6601-02.

6601-02 Security guard agencies

Applies to establishments engaged in providing general security guard services for clients such as airports, commercial, industrial, residential and governmental facilities. Services include, but are not limited to, protecting persons or buildings, responding to fire or burglar alarms, protecting and/or transporting executives, providing security at strikes, and conducting electronic sweeps. The clients' security systems may be connected to a central security system of the security guard agency, where employees of the security guard agency monitor the client's systems and notify the appropriate authorities if necessary. As a general rule, security guards, do not have police powers.

This classification excludes security guards at logging sites who are to be reported separately in classification 6601-03 and security guards at construction sites who are to be reported separately in classification 6601-04 provided the conditions in the special exception section of the general rules have been met.

6601-03 Security guards at logging sites

Applies to employees of logging contractors or landowners who are employed as security guards to maintain security at logging sites by preventing, deterring and detecting crime and/or fires. Security guards subject to this classification are limited to employment at the site only during those hours that the employer is not conducting any other operations at the site and may have no other duties during their shift as security guard. This classification also applies to establishments that contract to provide security guards at logging sites.

6601-04 Security guards at construction sites

Applies to employees of construction contractors or landowners who are employed as security guards to maintain security at construction sites by preventing, deterring and detecting crime and/or fires. Security guards subject to this classification are limited to employment at the site only during those hours that the employer is not conducting any other operations at the site and may have no other duties during their shift as security guard. This classification also applies to establishments that contract to provide security guards at construction sites.

6601-05 Armored car services

Applies to establishments engaged in armored car services which transport cash or valuables for businesses such as, but not limited to, banks, supermarkets, and jewelry stores to other destinations. Also included are armored car services which collect or deposit money into or from automatic teller machines.

6601-06 Crowd control services

Applies to establishments engaged in providing crowd control services. Crowd control services is a growing field and may include, but not be limited to, crowd management at sporting events, race tracks, live concerts, rallies, conventions, rodeos, and fairs. This classification includes parking lot staff, and rule enforcement employees such as uniformed or plain clothes security guards who maintain order as well as providing personal protection.

This classification excludes ((~~theatre~~) theater) ushers, inside ticket takers, set up crews and stagehands who are to be reported separately in classification 4504.

6601-07 Process/legal messenger services

Applies to establishments engaged in providing process services and legal messenger services for others. Process servers deliver legal documents such as summonses, complaints, subpoenas and writs to individuals. A legal messenger delivers legal papers between legal representatives and the courts. Services may also include checking public records, surveillance work, and conducting interviews to locate recipients of legal documents. They will provide clients with a final report of service or nonservice on the recipient.

This classification excludes errand and parcel delivery services that are to be reported separately in classification 1101.

AMENDATORY SECTION (Amending WSR 12-24-067, filed 12/4/12, effective 1/4/13)

WAC 296-17A-6708 Classification 6708.

6708-01 Jockeys

Applies to jockeys riding horses in a race, or working with the horses in any way, during the dates of a scheduled race meet. Coverage during a race meet is through election of optional coverage and is to be reported at ten hours per mount per race or ten hours per day if not riding in a race. Coverage outside the dates of a race meet is mandatory. Jockeys will be considered exercise riders when employed by a trainer and/or owner at a time other than during the dates of a scheduled race meet and are then reportable in the classification that is appropriate for their job duties.

6708-02 Professional motor vehicle or watercraft race drivers

Applies to professional motor vehicle/water craft race drivers during a competition. Coverage during a competition is mandatory and is subject to a division of hours as provided in the general exclusion section of the general reporting rules.

When not driving during competition, hours worked are reportable as appropriate to the work being performed:

- Maintenance of a racing motor vehicle and/or pit crew operations which are to be reported separately in classification 3411;

- Assembly of a racing motor vehicle which is to be reported separately in classification 3402; maintenance of a racing water craft and/or pit crew operations which are to be reported separately in classification 3414; assembly of a racing water craft which is to be reported separately in classification 2903, 3402 or 3511 as appropriate; and any other work usually done for this employer which is to be reported separately as appropriate to the employees usual job duties.

This classification excludes piloting an aircraft in a race which is to be reported separately in classification 6803 for a plane or 6801 for a hot air balloon.

Special note: Race car drivers are reported at ~~(ten)~~ actual hours for each race/heat.

WSR 20-20-109
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed October 6, 2020, 9:07 a.m., effective November 6, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: eRules Phase 11: Chapter 296-32 WAC Safety standards for telecommunications, this rule making is part of the division of occupational safety and health (DOSH) eRules project. This rule making does not add or change any requirements; the purpose is to provide consistency in formatting, design and accessibility to the rules via mobile electronic devices.

This rule making accomplishes the following:

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

Amended Sections:

WAC 296-32-200 through 296-32-24034.

- Changed bullets to letters or numbers where applicable.
- Changed "shall" to "must" where applicable.
- Removed words/phrases including, but not limited to "means," "shall mean," or "are" from all applicable definitions, and replaced it with a period, making all definitions complete sentences.
- Changed "kilonewton" to "kN" where applicable.
- Changed "assure" to "ensure" where applicable.
- In multiple subsections, added the word "safety" to the title of "National Electric Safety Code (NESC)" where it was inadvertently left out in previous rule making.

WAC 296-32-210 Definitions.

- In the definition of "Wire rope (cable)," updated "wench" to the correct spelling of "winch."

WAC 296-32-22555 General fall protection.

- In a Note under subsection (8)(a)(ix), updated reference from "WAC 296-24-88050 Appendix C Personal fall arrest system (Part I Mandatory, Parts II and III Non-mandatory)" to "Chapter 296-880 WAC, Unified safety standards for fall protection."
- In subsection (9)(d)(ii)(D), updated an incorrect measurement reference from "226k" to "2.22kN."

Citation of Rules Affected by this Order: Amending WAC 296-32-200, 296-32-210, 296-32-22511, 296-32-22512, 296-32-22515, 296-32-22520, 296-32-22525, 296-32-22530, 296-32-22535, 296-32-22540, 296-32-22545, 296-32-22550, 296-32-22555, 296-32-22560, 296-32-22565, 296-32-22572, 296-32-22574, 296-32-22576, 296-32-22578, 296-32-23505, 296-32-23510, 296-32-23512, 296-32-23514, 296-32-23516, 296-32-23518, 296-32-23520, 296-32-23522, 296-32-23523, 296-32-23524, 296-32-23526, 296-32-23528, 296-32-23530, 296-32-23532, 296-32-23534, 296-32-23536, 296-32-24005, 296-32-24010, 296-32-24012, 296-32-24014, 296-32-24018, 296-32-24020, 296-32-24022, 296-32-24024, 296-32-24026, 296-32-24028, 296-32-24032, and 296-32-24034.

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

Adopted under notice filed as WSR 20-15-134 on July 21, 2020.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 47, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 47, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 6, 2020.

Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-200 Scope and application. (1) This chapter sets forth safety and health standards that apply to the work conditions, practices, means, methods, operations, installations and processes performed at telecommunications facilities and at telecommunications field installations, which are located outdoors or in building spaces used for such field installations. "Facility" work includes the installation, operation, maintenance, rearrangement, and removal of communications equipment and other associated equipment in telecommunications facilities. "Field" work includes the con-

struction, installation, operation, maintenance, rearrangement, and removal of conductors, antenna systems and other equipment used for signal or communication service, and of their supporting or containing structures for land-line or wireless communications. This could include overhead or underground, on public or private rights of way, or other lands, buildings or other structures, including those locations that may fall under the scope of chapter 296-45 WAC.

Note: Work that falls under the scope of chapter 296-45 WAC may include, but is not limited to, transmission towers, poles, substations, and substation equipment.

(2) These rules set forth the minimum requirements for employers to protect employees from the hazards associated with working on communication towers, structures, and poles. This includes antenna and antenna supporting structures, broadcast and other similar structures that support communication related equipment, during construction, alteration, repair, operation, inspection, maintenance, demolition activities and any other activities connected to accomplishing work associated with this chapter.

(3) The three primary parts of this chapter are as follows:

- Part A: General requirements - This part is intended to convey the areas of responsibility to employers when working on telecommunications facilities or locations of any type.
- Part B: Requirements that apply to wireline - This part is intended to convey to the employer the responsibilities for the training and protection of their employees working with or in telecommunications wireline facilities and field installations. Areas of Part B may also apply to the wireless Part C.
- Part C: Requirements that apply to wireless - This part is intended to convey to the employer the responsibilities for the training and protection of their employees working with or upon telecommunications wireless facilities and field installations. Areas of Part C may also apply to the wireline Part B.

(4) These standards do not apply to installations under the exclusive control of electric utilities used for the purpose of communications or metering, or for generation, control, transformation, transmission, and distribution of electric energy, which are located in buildings used exclusively by the electric utilities for such purposes, or located outdoors on property owned or leased by the electric utilities or on public highways, streets, roads, etc., or outdoors by established rights on private property.

(5) Operations or conditions not specifically covered by this chapter are subject to all other applicable Washington Administrative Code to include, but not limited to, chapter 296-24 WAC, general safety and health standards, chapter 296-27 WAC, Recordkeeping and reporting, chapter 296-800 WAC, Safety and health core rules, and chapter 296-62 WAC, General occupational health standards. Operations which involve construction work not covered by this chapter, as defined in chapter 296-155 WAC, are subject to the applicable standards contained in chapter 296-155 WAC, safety standards for construction work and other recognized industry standards that may be applicable to hazards or exposures not covered by this chapter.

(6) This standard will augment the Washington state general safety and health standards chapter 296-24 WAC,

General occupational health standards, chapter 296-62 WAC, electric power generation, transmission, and distribution rules, chapter 296-45 WAC, and any other standards which are applicable to all industries governed by the Washington Industrial Safety and Health Act. In the event of a conflict arising between any portion of this chapter and any portion of the aforementioned standards, the provisions of this chapter 296-32 WAC, will apply. Additionally, operations, conditions, work methods and other work related situations or activities may be subject to additional rules and regulations depending upon the nature of the work being performed.

(7) All communication companies and entities operating communication facilities, networks or systems within the state of Washington must design, construct, operate, and repair their lines and equipment according to the requirements of the following:

((*) (a) Wireline facilities (~~shall~~) must meet the requirements of 2016 National Electric Safety Code (NESC) (ANSI-C2).

((*) (b) Structures which have the primary purpose to serve as antenna supporting structures (~~shall~~) must meet the design requirements of ANSI/TIA 222-G-2005.

((*) (c) Telecommunication construction standards, ANSI/TIA-322, 2016 and ANSI/ASSE A10.48, 2016.

(8) In exceptional cases where compliance with specific provisions of this chapter can only be accomplished to the serious detriment and disadvantage of an operation, variance from the standards or requirements may be permitted by the director of the department of labor and industries after receipt of application and approval for a variance which meets the requirements of WAC 296-900-11005.

(9) The provisions of this chapter will be enforced through inspections or consultation activities conducted by properly trained, qualified and authorized safety and health officers designated by the department.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-210 Definitions. The terms used in these standards will be interpreted in the most commonly accepted sense consistent with the communications industry. The words "shall" and "must," are used to indicate the provisions which are mandatory.

Acceptable conditions for access (~~are~~), The conditions that must exist before the employer authorizes and grants permission for construction, alteration, repair or maintenance work. These conditions include the following:

((*) (a) Work under the control of a work safety program meeting the requirements of the rules in this chapter;

((*) (b) Notwithstanding the prohibitions outlined in this rule, if emergency maintenance work must be performed where there is an accumulation of snow, ice or other slippery material, the employer (~~shall~~) must implement safe work practices (equipment, practices and procedures) that address the hazards known to be associated with work to minimize the associated risk to employees while working.

Accessible radiation (~~means~~), Laser radiation to which human access is possible.

Adverse weather. Does not abdicate the responsibility of the employer to provide for a safe work environment. Proper clothing and safety equipment must be suitable for the work intended. When adverse weather (such as high winds, heat, cold, lightning, rain, snow or sleet) creates a hazardous condition, operations ((shall)) must be suspended until the hazardous condition no longer exists.

Aerial lifts. Includes, but are not limited to, the following types of vehicle-mounted aerial devices used to elevate personnel to job sites above ground:

- ((*) (a) Extensible boom platforms;
- ((*) (b) Aerial ladders;
- ((*) (c) Articulating boom platforms;
- ((*) (d) Vertical towers;

((*) (e) A combination of any of the above defined in ANSI A92.2-2015. These devices are made of metal, wood, fiberglass, reinforced plastic (FRP), or other material; are powered or manually operated and are deemed to be aerial lifts whether or not they are capable of rotating above a substantially vertical axis.

Aerial splicing platform. This usually or commonly consists of a platform, approximately 3 feet x 4 feet, used to perform aerial cable work. It is furnished with fiber or synthetic ropes for supporting the platform from aerial strand, detachable guy ropes for anchoring it, and a device for raising and lowering it with a handline.

Aerial tent ((is)). A small tent usually constructed of vinyl coated canvas which is usually supported by light metal or plastic tubing. It is designed to protect employees in inclement weather while working on ladders, aerial splicing platforms, or aerial devices.

Anchorage ((means)). A secure connecting point or a terminating component of a fall protection system or rescue system capable of safely supporting the impact forces applied by a fall protection system or anchorage subsystem.

Anti-two block device ((is)). A positive acting device that prevents contact between the load block or overhaul ball and the top block (two-blocking) or a system that deactivates the hoisting action before damage occurs in the event of a two-block situation.

Articulating boom lift/crane ((is)). A crane or boom lift whose boom consists of a series of folding, pin connected structural members, typically manipulated to extend or retract by power from hydraulic cylinders.

Assisted rescue ((is)). A rescue requiring the assistance of others.

Automatic descent control device ((is)). A load lowering device or mechanism that automatically controls pay-out speed of line or descent speed under load once it has been engaged.

Barricade ((is)). A physical obstruction such as tapes, cones, or "A" frame type wood and/or metal structure intended to warn and limit access to a work area.

Barrier ((is)). A physical obstruction which is intended to prevent contact with energized lines or equipment, or to prevent unauthorized access to a work area.

Boatswain 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.

Bond ((is)). An electrical connection from one conductive element to another for the purpose of minimizing potential differences or providing suitable conductivity for fault current or for mitigation of leakage current and electrolytic action.

Brakes ((are)). A mechanical or hydraulic system that can decelerate or stop a load.

Cable ((is)). An insulated or uninsulated electrical conductor, often in strands or any combination of electrical conductors that may be insulated from one another.

Cable sheath ((is)). A protective covering applied to cables.

Note: A cable sheath may consist of multiple layers of which one or more is conductive.

Cage ((is)). A barrier, which may be referred to as a cage guard or basket guard, that is an enclosure mounted on the side rails of the fixed ladder or fastened to the structure to enclose the climbing space of the ladder.

Capstans ((are)). A spool-shaped mechanical device mounted on the end of a shaft around which a rope is wrapped; sometimes called a cathead when used in a horizontal position; can be pole mounted, tower mounted, or truck mounted.

Carabiner ((is)). A connector generally comprised of a trapezoidal or oval shaped body with a closed gate or similar arrangement that may be opened to attach another object and, when released, automatically closes to retain the object.

Carrier ((is)). The track of a ladder safety device consisting of a flexible cable or rigid rail.

Circuit ((is)). A conductor or system of conductors through which an electric current is intended to flow; or an electrical device that provides a path for an electrical current to flow.

Clearance ((is)). The distance from a specified reference point or protection by the use of protective devices to prevent accidental contact by persons or objects on approach to a point of danger.

Climber attachment anchorage ((is)). An anchorage point for attaching a lanyard or similar fall protection device. See also "anchorage."

Climbing facilities ((are)). A series of attachments installed on a support structure, or antenna, on which a climber may step while ascending or descending, and which may incorporate or employ:

((*) (a) Steps, rungs, cleats and/or structural members which form an integral part of the structure;

((*) (b) Rungs, cleats or step bolts which are attached to the structure;

((*) (c) Fixed ladders, safety devices, platforms and cages used for climbing or working on communication structures; or

((*) (d) Climber attachment anchorages.

Climbing space ((is)). The space reserved on poles or structures that permits ready access for workers to gain access to equipment and conductors located on poles or structures.

Communication lines ((are)). The conductors and their supporting or containing structures for telephone, telegraph, railroad signal, data, clock, fire, police-alarm, community television, fiber optic, and other systems which are used for

public or private signal or communication services, and which operate at potentials not exceeding 400 volts to ground or 750 volts between any two points of the circuit, and the transmitted power of which does not exceed 150 watts. When communications lines operate at less than 150 volts to ground, no limit is placed on the capacity of the system. Specifically designed communications cables may include communication circuits not complying with the preceding limitations, where such circuits are also used incidentally to supply power to communication equipment.

Communication plant ~~((are))~~. The lines and conductors and their associated equipment required to provide public or private signals for communicative service.

Communication tower ~~((is))~~. Any structure that is used primarily as an antenna or to provide attachment points for one or more antennas or signaling devices. Where the communication tower is affixed to another structure, such as an electrical transmission tower, church steeple, building rooftop, or water tower, the applicable part of any controlling regulation for protection of employees ~~((shall))~~ **must** apply up to the point of access to the communication tower.

Competent climber ~~((is))~~. An individual with the physical capabilities to climb; has actual tower climbing experience; is trained in fall protection regulations including the equipment that applies to tower work; is capable of identifying existing and potential fall hazards; and has the employer's authority to take prompt corrective action to eliminate those hazards.

Competent person ~~((is))~~. A person who has been trained pertaining to their job assignment and can identify existing and predictable hazards in their surroundings that are either unsanitary, hazardous, or dangerous to employees and has the authority by the nature of their position to take prompt corrective measures to eliminate them. The person must also be knowledgeable in the requirements of this chapter to be competent.

Competent rescuer ~~((is))~~. An individual designated by the employer who by training, knowledge and experience is capable of the implementation, supervision and monitoring of a rescue at height in the event of an emergency. This person ~~((shall))~~ **must** have the employer's authority to write the individual site rescue plan, and may be designated to manage the employer's fall protection rescue program.

Competent rigger ~~((is))~~. A person knowledgeable and experienced with the procedures and equipment common to the communication structures industry and trained to identify hazards with authorization to take prompt corrective measures.

Conductor ~~((is))~~. A material, usually in the form of a wire, cable, or bus bar, suitable for carrying an electric current.

Construction work ~~((shall mean and))~~. Includes all or any part of excavation, construction, erection, alteration, repair, demolition, and dismantling, of buildings and other structures and all operations in connection therewith; the excavation, construction, alteration and repair of sewers, trenches, caissons, conduits, pipe lines, roads and all operations pertaining thereto; the moving of buildings and other structures, and to the construction, alteration, repair, or removal of wharfs, docks, bridges, culverts, trestles, piers,

abutments or any other construction, alteration, repair or removal work related thereto.

Construction work. For purposes of Part C of this chapter also means field activities related to the installation, alteration, maintenance or demolition/decommission of antenna supporting structures and antennas.

Contract employer ~~((is))~~. An employer, other than a host employer, that performs work covered by this chapter under contract.

Crew ~~((means))~~. A group of two or more employees of one employer sent to a worksite to work on the same project.

Crew chief/supervisor/foreman ~~((is))~~. One who is authorized and designated as competent and qualified by the employer.

Crewleader or person-in-charge ~~((is-that))~~. Person directly in charge of employees doing the work regardless of title.

Crown block (top block) ~~((is))~~. The upper sheave assembly attached to a structure used to change the direction of a load or jump line coming from a hoist.

Deceleration distance ~~((is))~~. The vertical distance between the user's fall arrest attachment at the onset of fall arrest forces during a fall, and after the fall arrest attachment comes to a complete stop.

Direct communications ~~((is))~~. The effective and reliable two-way communication, being able to send and receive communications, between crew members or crews using normal voice communication, visual, radio, or cellular means.

Effectively grounded ~~((means))~~. Intentionally connecting equipment to earth through a ground connection or connections of sufficiently low impedance and having sufficient current-carrying capacity to prevent the transmission of fault current or voltages which may result in undue hazard to employees or connected equipment.

Elevated (high angle) rescue ~~((is))~~. The process by which emergency methods and equipment are utilized in order to gain access to and egress from the location of an injured employee(s) on a tower structure, or other elevated structures and lower both the injured employee(s) and the rescuer(s) to the ground safely.

Emergency ~~((is))~~. An unforeseen occurrence endangering life, limb, or property which requires immediate action.

Emergency washing facilities. Typically consist of emergency showers, eyewashes, eye/face washes, hand-held drench hoses, or other similar units.

Energized (alive or live) ~~((means))~~. Electrically connected to a source of potential difference or electrically charged so as to have a potential different from that of the earth or different from that of adjacent conductors or equipment.

Engineer of record (EOR) ~~((is))~~. A registered professional engineer with expertise in the discipline applicable to the scope of work and responsible for the structural adequacy of the design of the structure in the completed project.

Engineered hoist system ~~((is))~~. A hoist system that is the complete system for hoisting, including: The frame, mounts and/or anchorages, prime mover (winch assembly), motors, drums, truck chassis (if used as the base for the hoist), wheel chocks, wire rope, hour meter, foot blocks, gin pole (if used), and rooster head or cat head, as applicable.

Equipment ((is)). A general term which includes materials, fittings, devices, appliances, fixtures, apparatus, and similar items used as part of, or in connection with, a supply or communications installation; to include all machinery used in the performance of constructing and maintaining communication systems.

Exit. Provides a way of travel out of the workplace.

Exit route ((is)). A continuous and unobstructed path of exit or travel from any point within a communications workplace, structure, or site to provide a safe means of withdrawal.

Exposed live parts ((are)). Electrical parts that are not suitably covered, guarded, isolated, or insulated and are capable of being accidentally accessed, touched or approached closer than a safe distance.

Exposed wiring methods ((are)). Those methods working with electrical wires that are attached to surfaces or behind panels designed to allow access to the wires.

Fall arrest ((is)). The action or event of stopping a free fall or the instant where the downward free fall has been stopped.

Fall arrest system ((is)). The collection of equipment components that are configured to arrest a free fall.

Fall protection equipment ((is)). The personal equipment that employees utilize in conjunction with fall protection systems, including connectors, body belts or body harnesses, lanyards, ropes, deceleration devices, and anchorage points to ensure 100 percent fall protection for the employees.

Fall protection work plan ((is)). A written planning document in which the employer identifies all areas on the job site where fall hazards may exist. Detailed requirements relating to a fall protection work plan are covered in WAC 296-32-22555 and 296-32-24012 of this chapter.

Fall restraint ((is)). A system in which all necessary components function together to restrain or prevent an employee from falling to a lower level. Types of fall restraint systems include guardrail systems and personal fall restraint system(s) that prevents the user from falling any distance. The system is comprised of either a lineman's belt or full 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.

Fiber-optic cable - Communication ((is)). A fiber-optic cable meeting the requirements for a communication line and located in the communication space of overhead or underground facilities.

Fiber-optic cable - Supply ((is)). A fiber-optic cable located in the supply space of overhead or underground facilities.

Field work ((is)). The construction, installation, operation, maintenance, rearrangement, and removal of conductors, antenna systems, and other equipment used for signal or communication service, and of their supporting or containing structures for landline or wireless communications.

First aid ((is)). The extent of treatment you would expect from a person trained in basic first aid, using supplies from a first-aid kit. Tests, such as X-rays, must not be confused with treatment.

Flemish eyes (Molly Hogan) ((is)). An eye splice made by using stranded cable and weaving them together to make an eye.

Floor hole ((means)). An opening measuring less than twelve inches but more than one inch in its least dimension in any floor, roof, platform, or surface through which materials but not persons may fall, such as a belt hole, pipe opening, or slot opening.

Floor opening ((means)). An opening measuring twelve inches or more in its least dimension in any floor, roof, platform, or surface through which persons may fall.

Foot block (heel or base block) ((is)). A block stationed or positioned at the base of a structure or pole that allows a line, rope or wire rope to change direction 90 degrees to go up the structure.

Full body harness ((is)). A body support that is designed to contain the torso in such a manner that fall arrest forces are distributed over at least the upper thighs, pelvis, chest, and shoulders, with provisions for attaching a lanyard, lifeline, or deceleration devices. These specifications must meet the requirements specified in ANSI Z359.1-2007.

Gin pole ((is)). A device unique to the telecommunications industry and is used to raise successive sections of tower steel, antennas, personnel or equipment into position. This temporary device allows headroom above the highest fixed point of the tower or structure.

Gross load ((means)). The total load to be lifted. This includes the weight of the lifted object, headache ball, the load line, tag line, and any other attachments.

Ground ((is)). A conductive body, usually earth, to which an electric potential is referenced; the connecting or establishment of a connection, whether by intention or by accident; a conducting connection, between an electric circuit and equipment and earth or to some other conducting body that serves in place of the earth.

Grounded ((means)). To be positively connected to or in contact with earth or connected to an extended conduction body that serves instead of earth. A conducting object such as, but not limited to, a wire that is connected to such a position as zero potential. A connection has been made between an electrical circuit or equipment and the earth or another conducting body besides the earth, used as an arbitrary zero of potential.

Grounding (for employee protection) ((is)). The act of placing shorts and grounds on conductors and equipment for the purpose of protecting employees from dangerous voltages while working on such lines or equipment.

Ground tent ((is)). A small tent usually constructed of vinyl coated canvas supported by a metal or plastic frame. Its purpose is to protect employees and the equipment from inclement weather while working at buried cable pedestal sites or similar locations.

Grounded conductor ((is)). A system or circuit conductor which is intentionally grounded.

Grounded systems ((is)). A system of conductors/equipment in which at least one conductor or point is intentionally grounded, either solidly or through a current-limiting device (not a current-interrupting device).

Grounding electrode conductor (grounding conductor) ((is)). A conductor used to connect equipment or the

grounded components of a wiring system to a grounding electrode.

Guard or guarded ((means)). Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens, mats, platforms, or warning signs or devices to remove the possibility of dangerous contact to lines, equipment or devices, limiting or preventing approach by other persons or objects to a point of danger.

Guardrails ((means)). A type of fall restraint system that is a horizontal barrier consisting of a top rail and mid rail, and toe board when used as falling object protection for persons who may work or pass below, that is erected along all open sides or edges of a walking/working surface, a floor opening, a floor hole, wall opening, ramp, platform, or runway.

Handrail ((is)). A single bar or pipe supported on brackets from a wall or partition to provide a continuous handhold for persons using a stair.

Hazard ((is)). Any condition, potential or inherent, which can cause injury, death, or occupational disease.

High wind ((is)). A wind condition that is determined to be at such velocity as to create a hazard to the employees performing aerial tasks as an employee would be exposed to being blown from elevated locations, lose footing and control; that wind speed which has been determined to be unsafe by the manufacturer of the particular equipment being used (cranes, lifts, booms, etc.) and/or equipment being installed. Winds exceeding 25-30 miles per hour (48.3 kilometers per hour) if material handling is involved, winds exceeding 40 miles per hour (64.4 kilometers per hour) are normally considered as meeting this criteria.

Hoist mechanism or hoist ((is)). The complete unit including frame, prime mover (winch assembly), pumps, motors, drums, and any associated equipment that is necessary to make the complete unit work and is used to lift a load.

Hoisting ((is)). The act of lifting and/or lowering loads or personnel.

Horizontal lifeline ((means)). A rail, rope, wire, or synthetic cable that is installed in a horizontal plane between two anchorages and used for attachment of an employee's lanyard or lifeline device while moving horizontally.

Host employer ((means)). An employer who operates or maintains telecommunications facilities covered by this chapter and who authorizes a contract employer to perform work on that installation.

Note to the definition of "host employer":

The Division of Safety and Health (DOSH) will treat the telecommunication company or the owner of the installation as the host employer if it operates or controls operating procedures for the installation. If the telecommunication company or installation owner neither operates nor controls operating procedures for the installation, DOSH will treat the employer that the telecommunication owner has contracted with to operate or control the operating procedures for the installation as the host employer. In no case will there be more than one host employer.

Individual-rung/step ladder ((is)). A fixed ladder consisting of individual steps, rungs or climbing pegs mounted

directly to the surface, side or wall of the pole, structure, building, equipment, or vault.

Insulated ((means)). Separated from other conducting surfaces by a dielectric substance for the intended applied voltage or may be subject to (including air space) offering a high resistance to the passage of current.

Note: When any object is said to be insulated, it is understood to be insulated in suitable manner for the conditions to which it is subjected. Otherwise, it is, within the purpose of these standards, uninsulated. Insulating coverings of conductors is one means of making the conductor insulated.

Insulation (as applied to cable) ((means)). That which is relied upon to insulate the conductor from other conductors or conducting parts or from ground.

Job hazard assessment ((is)). A process used to identify hazards and the methods to eliminate or control those hazards.

Joint use ((is)). The sharing of a common facility, such as a manhole, trench or pole, by two or more entities or utilities such as, but not limited to, power, alarm systems, signal lighting and telecommunications.

Ladder ((is)). A device incorporating or employing steps, rungs, or cleats.

Ladder platform ((is)). A device designed to facilitate working aloft from an extension ladder. A typical device consists of a platform (approximately 9" x 18") hinged to a welded pipe frame. The rear edge of the platform and the bottom crossmember of the frame are equipped with latches to lock the platform to ladder rungs.

Ladder safety device ((is)). Any device, other than a cage or well, designed to arrest the fall of a person using a fixed ladder.

Ladder safety system ((means)). A system designed to eliminate or reduce the possibility of falling from a ladder. A ladder safety system usually consists of a carrier, safety sleeve, lanyard, connectors, and body harness. Cages and wells are not ladder safety systems.

Ladder seat ((is)). A removable seat used to facilitate work at an elevated position on rolling ladders in telecommunication centers.

Landing ((is)). An area such as the ground, roof, or platform that provides access/egress for a fixed ladder.

Laser safety officer ((means)). One who has authority and responsibility to monitor and enforce the control of laser hazards and effect the knowledgeable evaluation and control of lasers.

Length of climb ((is)). The total vertical distance a person could climb in traveling between the extreme points of access/egress for a fixed ladder, whether the ladder is of an unbroken length or consists of multiple sections. This total vertical distance is determined by including all spaces between all ladder steps or rungs and all other vertical intervening spaces between the extreme points of access/egress.

Line clearance tree trimming ((is)). The pruning, trimming, repairing, maintaining, removing or clearing of trees or the cutting of brush that is within 10 feet (305 cm) of electric supply lines or equipment.

Lineman's body belt ((is)). A body support comprised of a strap, at least four inches in width, designed to be compatible with an approved fall restraint system.

Line patrol ((is)), A Looking at aerial plants after storm damage for damaged lines.

Line truck ((is)), A truck used to transport employees, tools, and material, and to serve as a traveling workshop for telecommunication installation and maintenance work. It is sometimes equipped with a boom and auxiliary equipment for setting poles, digging holes, and elevating material or employees.

Listed ((means)), Equipment that is listed in a publication by a nationally recognized laboratory (such as, but not limited to, UL (Underwriters' Laboratories, Inc.)) that inspects and approves that type of equipment. Listed equipment must also state that the equipment meets nationally recognized standards or has been tested and found safe to use in a specific manner.

Load chart ((is)), A chart used that is affixed to and specific to the equipment to determine the lifting capacities under specified parameters and an understanding of the working parameters within which the capacities are to be used.

Load line ((means)), A synthetic or wire rope of sufficient size, durability and strength to raise and lower the intended gross load safely.

Locking snap hook ((is)), A connecting snap hook that requires two separate forces to open the gate; one to deactivate the gatekeeper and a second to depress and open the gate which automatically closes when released; used to minimize roll out or accidental disengagement.

Lockout ((is)), Placing a lockout device on an energy-isolating device using an established procedure to make sure the machine or equipment cannot be operated until the lockout device is removed.

Lockout device ((is)), A device that uses a positive means, such as a key or combination lock, to hold an energy-isolating device in the "safe" or "off" position. This includes blank flanges and bolted slip blinds.

Manhole ((is)), A subsurface enclosure which personnel may enter and which is used for the purpose of installing, operating, and maintaining underground and submersible equipment and/or cable.

Manhole platform ((is)), A platform consisting of separate planks which are laid across platform supports. The ends of the supports are engaged in the manhole cable racks or approved support points designed for human support.

Manlift equipment ((are such)), Types of portable truck-, trailer-, crane-mounted equipment, such as mechanical, electric or hydraulic ladders and boom-mounted or suspended buckets, platforms or cages.

Manual descent control device with automatic lockoff ((means)), A manual descent control device with automatic lockoff features having provision for both "hands-free" and "panic" locking capabilities.

Maximum intended personnel load/gross load ((is)), The total load and weight of all employees; their tools, materials, load lines, and other loads reasonably anticipated to be applied to the hoist apparatus when an employee is hoisted.

Maximum permissible exposure (MPE) ((means)), The rms and peak electric and magnetic field strength, their squares, or the plane-wave equivalent power densities associ-

ated with these fields to which a person may be exposed without harmful effect and with an acceptable safety factor.

May (and "should") or "it is recommended" are used to indicate the provisions are not mandatory but are recommended.

Microwave transmission ((is)), The act of communicating, sending, receiving or signaling utilizing a frequency between 1 GHz (gigahertz) and 300 GHz inclusively.

Mobile crew ((is)), A work crew that routinely moves to a different work location periodically. Normally a mobile crew is not at the same location all day.

Multi-use site for towers and antennas ((means)), Any site where more than one subscriber has antennas for the use of communication purposes.

Must (and "shall") as used in this chapter make the provisions mandatory.

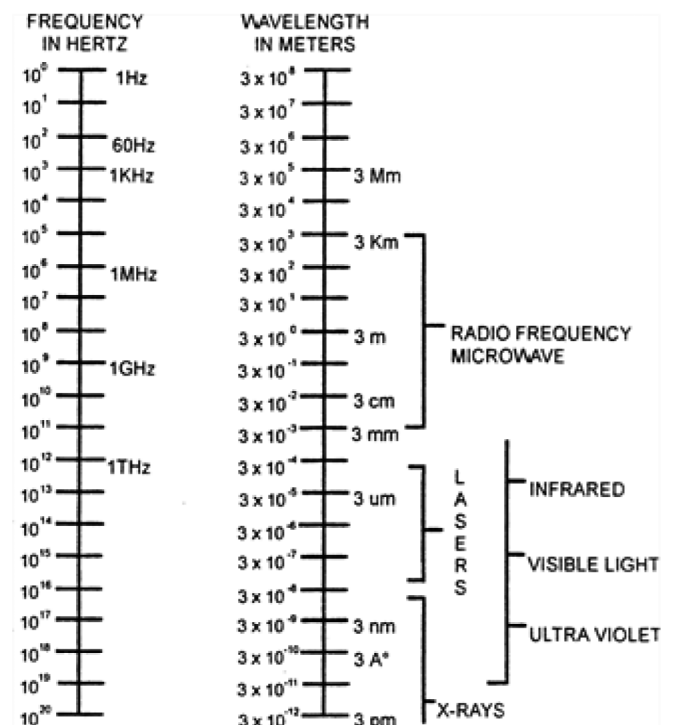
Nearby facility ((is)), A sanitary facility that is within three minutes travel by the transportation provided.

NEMA ((means)), These initials stand for National Electrical Manufacturing Association.

Nominal voltage. The nominal voltage of a system or circuit is the value assigned to a system or circuit of a given voltage class for the purpose of convenient designation. The actual voltage may vary above or below this value.

Nonionizing radiation (RFR) as related to industrial sources ((means)), Electromagnetic radiation within the spectral range of approximately 200 nanometers to 3 kilometers including ultraviolet, visible, infrared and radiofrequency/microwave radiation.

Electromagnetic Spectrum
Figure 1



Normally unattended work location ((is)). A unattended site that is visited occasionally by one or more employees.

Oil sample analysis ((is)). A method used to evaluate oil, which may not necessarily mean a laboratory analysis, but one that could be effectively accomplished in the field by a qualified person; usually done to evaluate/ascertain the PCB levels or insolative qualities of the oil.

One hundred percent (100 percent) fall protection ((means)). Each employee exposed to fall hazards above 4 feet while ascending or descending, moving point to point, or working from a platform, crane basket, lift or bucket truck; must be protected by fall protection 100 percent of the time.

Operator (equipment) ((is)). A person who runs or operates equipment used in the construction and maintenance of communication systems.

Permissible exposure limits (PELs) ((refer to)). A time-weighted average (TWA) of exposure for an eight-hour work day within a forty-hour workweek. Exceptions are those limits which are given a ceiling value.

Personal eyewash units ((are)). Portable, supplementary units that support plumbed units or self-contained units, or both, by delivering immediate flushing for less than fifteen minutes.

Platform ((means)). A work surface elevated above the surrounding floor or ground level.

Pole balcony or seat ((means)). A balcony or seat used as a support for employees at pole-mounted equipment or terminal boxes. A typical device consists of a bolted assembly of composite or steel details and a wooden platform. Composite or steel braces run from the pole to the underside of the balcony.

Pole platform ((means)). A platform intended for use by an employee in splicing and maintenance operations in an elevated position adjacent to a pole. It consists of a platform equipped at one end with a hinged chain binder for securing the platform to a pole. A brace from the pole to the underside of the platform is also provided.

Portable ladder ((is)). A ladder that can be readily moved or carried.

Positioning system ((is)). A body belt or full body harness system configured to allow an employee to be supported on an elevated vertical or inclined surface, such as a wall, and work with both hands free from body support.

Positive locking system ((is)). A system that creates a mechanical means of ensuring that the connection or interface between two components will not slip.

Potable water ((is)). Water that you can safely drink that meets specific safety standards prescribed by the United States Environmental Protection Agency's *National Interim Primary Drinking Water Regulations*, published in 40 C.F.R. Part 141 and 40 C.F.R. 147.2400.

Powered lowering ((is)). The act of controlled lowering of a load by the use of a system or device in the power train, which can control the lowering speed of the winch assembly.

Prime mover ((is)). The system that provides the energy to rotate the winch assembly.

Proficient ((means)). A thorough competence derived from training and practice.

Proof test ((means)). The act of testing the rigging and hoist mechanism whenever newly rigged or after any changes are made to the hoist mechanism or rigging.

Protection from hazardous voltage ((means)). The isolation from or deenergizing of equipment to prevent accidental contact by persons or objects on approach to point of danger.

Protective devices or equipment ((means)). Those devices such as rubber gloves, rubber boots, rubber blankets, line hose, rubber hoods or other insulating devices or equipment, which are specially designed and appropriate for the electrical protection of employees.

Public highway ((means)). Every way, land, road, street, boulevard, and every way or place in the state open as matter of right to public vehicular travel, both inside and outside the limit of cities and towns.

Pulley ((is)). A sheave wheel that is grooved on the outer circumference to hold a wire or synthetic rope in place while turning and allows a mechanical advantage for lifting or a change in direction.

Qualified engineer ((is)). A professional engineer knowledgeable and experienced in engineering related practices for communication structures and/or lifting systems and rigging components commonly used in the communication industry.

Qualified line-clearance tree trimmer ((is)). A tree worker who through related training and on-the-job experience is familiar with the special techniques and hazards involved in line clearance.

Qualified line-clearance tree trimmer trainee ((means)). Any employee regularly assigned to a line-clearance tree-trimming crew and undergoing on-the-job training who, in the course of such training, has demonstrated their ability to perform duties safely at their level of training.

Qualified person ((is)). One who is familiar with the construction, maintenance, and operation of the equipment and hazards involved, or who has passed a journeyman's examination for the particular branch of the trades with which they may be connected, and trained in the methods necessary to identify and eliminate those hazards. An employee considered to be a qualified person depends on various circumstances in the workplace and on the level of training they have received and demonstrated competency with the tasks required of the job.

Radio frequency radiation (RFR). See nonionizing radiation.

Rated capacity ((is)). The load that a winch assembly may handle under given operating conditions and at a known design factor.

Record ((is)). Any item, documentation, collection, or grouping of information.

Registered professional engineer (RPE) ((is)). A registered professional engineer licensed under RCW 18.43.040 (1).

Remote site/worksite ((is)). A site/worksite that is over thirty minutes from emergency medical services or does not have reliable communications.

Rescue ((is)). The process of removing a person from danger, harm, or confinement to a safe location.

Rescue plan ((is)). A written process that describes in a general manner how rescue is to be approached under the specified parameters, such as location or circumstances.

Rescue procedure ((is)). A written series of logical steps that describes the specific manner in which rescue is to be accomplished.

Rescue system ((is)). An assembly of components and subsystems used for rescue.

Rescue system, one person ((is)). A rescue system intended to bear only the weight of a single person at one time.

Rescue system, two persons ((is)). A rescue system intended to bear the weight of up to two persons simultaneously.

Retraining ((means)). Classroom and/or on-the-job instruction required for continued retention of previously learned materials or skills.

Rigging ((means)). Includes, but is not limited to, chains, slings, ropes, pulleys, hooks, and all accompanying hardware for lifting, lowering, suspending, and fastening loads.

Rigging plan ((is)). A systematic and detailed presentation showing the equipment and procedures required for a construction process that will provide for the safety of personnel and for the stability of the structure and lifted components.

Rise ((is)). The vertical distance from the top of a tread to the top of the next higher tread.

Riser ((is)). The vertical part of the step at the back of a tread that rises to the front of the tread above.

Rooster head ((is)). A sheave assembly located at the top of a gin pole capable of rotating 360 degrees or fixed that allows a load line to pass through and return to a vertical position.

Rung ((means)). A ladder crosspiece used in climbing or descending. Also called a cleat or step.

Safety climb system ((is)). An assembly of components whose function is to arrest the fall of a user, including the carrier and its associated attachment elements (e.g., brackets, fasteners), the safety sleeve, and the body support and connectors, wherein the carrier is permanently attached to the climbing face of the ladder or immediately adjacent to the structure.

Safety sleeve ((is)). The part of a ladder safety system consisting of the moving component with locking mechanism that travels on the carrier and makes the connection between the carrier and the full body harness.

Safety watch system ((is)). A fall protection system as described in WAC 296-32-22555(10), in which a competent person monitors one worker who is engaged in repair work or servicing equipment on low pitch roofs only.

Self-retracting lanyard (SRL) ((is)). A self-retracting device suitable for applications in which the device is mounted or anchored so a possible free fall is limited to 2 feet (.6 m) or less.

Shall (and "must") as used in this chapter make the provisions mandatory.

Sheath ((means-as)). Applied to sharp tools that effectively covers the tool.

Should (and "may") or "it is recommended" are used to indicate the provisions are not mandatory but are recommended.

Side plates ((means)). The side plates of sheaves or double plate attachment points that support the sheave.

Side-step ladder ((is)). A rail ladder that requires stepping from the ladder in order to reach a landing.

Similar structures ((is)). Any structure that holds equipment relevant to the communication industry.

Single ladder ((is)). A nonself-supporting portable ladder, nonadjustable in length, consisting of one section. The size is designated by the overall length of the side rail.

Site/worksite ((is)). Any location where communications work is performed or equipment is located to include communications tower or antenna and the surrounding land or property where the tower or antenna work is being performed.

Slings ((are)). 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 support the load, such as looped wire rope, synthetic strap, or chain for supporting, cradling, or lifting an object.

Special-purpose ladder ((is)). A portable ladder that is made by modifying or combining design or construction features of the general-purpose types of ladders in order to adapt the ladder to special or specific uses.

Special tools and equipment. Includes, but is not limited to, high voltage detector and RFR monitor.

Specular reflection ((means)). A mirror-like reflection.

Stair railing ((is)). A vertical barrier attached to a stairway with an open side to prevent falls. The top surface of the stair railing is used as a handrail.

Stairs or stairway ((are)). A series of steps and landings that lead from: One level or floor to another; to platforms, pits, boiler rooms, crossovers, or around machinery, tanks, and other equipment; and are used more or less continuously or routinely by employees, or only occasionally by specific individuals. A stair or stairway may also be defined as having three or more risers.

Standard safeguard ((means)). Safety devices that prevent hazards by their attachment to machinery, appliances, tools, buildings, and equipment. These safeguards must be constructed of metal, wood, or other suitable materials. The department makes the final determination about whether a safeguard is sufficient for its use.

Static brakes ((means)). Brakes used once the motion of the drum has come to a complete stop to prevent creeping or slippage. Static brakes are not necessarily separate from the primary braking system or may be redundant in application. A locking device on a primary braking system may be used.

Step ((is)). A ladder crosspiece used in climbing or descending. Also called a cleat or rung.

Step bolt ((is)). A round or flat member affixed to the structure on one end with the other end having a means to prevent the foot from sliding off.

Strand ((is)). A stranded wire used to support a conductor, pole or other structures, such as "guys," etc.

Structure owner ((is)). The employer responsible for controlling, operating and maintaining the structure.

Subcontractor ((is)). The employer engaged by the owner or general contractor responsible for completing specific portions of a project in accordance with all applicable specifications.

System operator/owner ((is)). The person or organization that operates or controls the electrical conductors involved.

Tag line and/or trolley line ((is)). A method or system of applying a force to control a load and having the ability to create a space between the load and structure or gin pole.

Tagout ((is)). Placing a tagout device on an energy-isolating device using an established procedure to indicate that the energy-isolating device and the machine or equipment being controlled may not be operated until the tagout device is removed.

Tagout device ((is)). A prominent warning device, such as a tag and a means of attachment. It can be securely fastened to an energy-isolating device to indicate that the energy-isolating device and the machine or equipment being controlled may not be operated until the tagout device is removed.

Teardown inspection ((is)). The complete disassembly, cleaning, inspection, and replacement of all worn, cracked, corroded or distorted parts such as pins, bearings, shafts, gears, brake rotors, brake plates, drum, and base that may affect the operation of the winch assembly.

Telecommunications facility ((means)). A site or installation of communication equipment under the exclusive control of an organization providing telecommunications service, that is located outdoors or in a vault, chamber, or a building space used primarily for such installations.

Note: Telecommunication facilities are established, equipped and arranged in accordance with engineered plans for the purpose of providing telecommunications service. They may be located on premises owned or leased by the organization providing telecommunication service, or on the premises owned or leased by others. This definition includes switch rooms (whether electromechanical, electronic, or computer controlled), terminal rooms, power rooms, repeater rooms, transmitter and receiver rooms, switchboard operating rooms, cable vaults, and miscellaneous communications equipment rooms. Simulation rooms of telecommunication facilities for training or developmental purposes are also included.

Telecommunications digger derricks ((means)). Rotating or nonrotating derrick structures permanently mounted on vehicles for the purpose of lifting, lowering, or positioning hardware and materials used in telecommunications work.

Telecommunication service ((is)). The furnishing of a capability to signal or communicate at a distance by means such as telephone, telegraph, police and fire-alarm, community antenna television, or similar system, using wire, conventional cable, coaxial cable, wave guides, microwave transmission, or other similar means.

Through ladder ((is)). A rail ladder that requires stepping through the ladder in order to reach a landing.

TIA maintenance and condition assessment ((is)). A comprehensive assessment that addresses the following items - Structure condition, finish, lighting, grounding, antennas and lines, appurtenances, insulator condition (if applicable), guy wires condition and tensions, concrete foundations, guyed mast anchors and structure alignment (plumb). Once

the assessment occurs, a maintenance plan is adopted, if not corrected during the assessment, to bring the structure within recommended TIA, manufacturer or engineer of record guidelines.

Time-weighted average (TWA) ((is)). An exposure limit, averaged over eight hours that must not be exceeded during an employee's work shift.

Toeboard ((is)). A horizontal barrier at floor level erected along all open sides or edges of a floor opening, platform, runway, ramp, or other walking/working surface to prevent materials, tools, or debris from falling onto persons passing through or working in the area below.

Tower and tower site. See "site."

Tower construction ((is)). The building of a new tower or structure, or the installation of new equipment on an existing tower or structure.

Tower maintenance work ((means)). The replacement or work on any device on an existing tower, the repair of existing equipment, and painting.

Training program ((is)). A program designed to provide education through an established system of designing, developing, delivering, monitoring, evaluating, documenting and managing, safety, health and environmental training.

Tread. As used in stairs and stair railings summary (see WAC 296-800-250), ((means)) the horizontal part of the stair step.

Tread run. As used in stairs and stair railings summary (see WAC 296-800-250), ((means)) the distance from the front of one stair tread to the front of an adjacent tread.

Tread width ((is)). The distance from front to rear of the same tread including the nose, if used.

Trial lift ((means)). Testing a specified load weight from ground level to the location of where personnel or equipment are to be hoisted.

Two blocking ((means)). An unsafe condition that occurs on a system when the overhaul ball, hook block, or headache ball on the load line comes in contact with the main load sheave.

UL (Underwriters' Laboratories, Inc.) ((means)). You will find these initials on electrical cords and equipment. The initials mean the cord or equipment meets the standards set by the Underwriters' Laboratories, Inc.

Unvented vault ((is)). An enclosed vault in which the only openings are access openings.

Vault ((is)). An enclosure above or below ground which personnel may enter, and which is used for the purpose of installing, operating, and/or maintaining equipment and/or cable which need not be of submersible design.

Vented vault ((is)). An enclosure, with provision for air changes using exhaust flue stack(s) and low level air intake(s), operating on differentials of pressure and temperature providing for air flow.

Vertical lifeline ((is)). A vertical suspended flexible line used with a fall arrestor system to arrest a fall while a worker is in the act of climbing or stationary. When following the manufacturer's specifications vertical lifelines can be used for other configurations.

Voltage communications ((means)). Voltage used for electronic communications equipment to which employees or protective equipment may be subjected.

(a) *High* ((means)) - Over 600 volts to ground - RMS AC or DC or over 1,000 volts RMS across bare parts.

(b) *Medium high* ((means)) - 151 to 600 volts to ground - RMS AC or DC or 301 to 1,000 volts RMS AC across any bare parts.

Voltage electric supply ((means)) - The maximum effective line voltage to which the employees or protective equipment may be subjected.

(a) *Low* includes voltages from 100 to 600 volts.

(b) *High* ((means those)) includes voltages 601 volts and above.

Voltage of an effectively grounded circuit ((means)) - The highest nominal voltage available between any conductor and ground unless otherwise indicated.

Voltage of a circuit not effectively grounded ((means)) - The highest nominal voltage available between any two conductors. If one circuit is directly connected to and supplied from another circuit of higher voltage (as in the case of an autotransformer), both are considered as of the higher voltage, unless the circuit of lower voltage is effectively grounded, in which case its voltage is not determined by the circuit of higher voltage. Direct connection implies electric connection as distinguished from connection merely through electromagnetic or electrostatic induction.

Voltage, nominal ((is)) - A value assigned to a circuit or system to designate its voltage class (120/240, 480Y/277, 600, etc.). The actual circuit voltage can vary from the value if it is within a range that permits the equipment to continue operating in a satisfactory manner.

Watertight ((means)) - Constructed so that moisture will not enter the enclosure or container.

Weatherproof ((means)) - Constructed or protected so that exposure to the weather will not interfere with successful operation. Rainproof, rain tight, or watertight equipment can fulfill the requirements for weatherproof where varying weather conditions other than wetness, such as snow, ice, dust, or temperature extremes, are not a factor.

Well ((is)) - A walled enclosure around a fixed ladder that provides a person climbing the ladder with the same protection as a cage.

Winch/hoist ((means)) - A mechanical device for lifting and lowering loads by winding rope onto or off a drum.

Wire rope (cable) ((is)) - A rope made of strands of metal wire; a cord of metal wire used to operate, suspend or pull a mechanism or ((wrench)) winch line.

Working length ((is)) - The length of a nonself-supporting ladder, measured along the rails, from the base support point of the ladder to the point of bearing at the top.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22511 Host employer/contractor responsibilities. (1) Host employer responsibilities. Before work begins, the host employer ((shall)) must inform contract employers of:

(a) The characteristics of the host employer's installation that are related to the safety of the work to be performed and are listed in subsection (4)(a) through (e) of this section;

Note: This subsection requires the host employer to obtain information listed in subsection (4)(a) through (e) of this section if it does not have this information in existing records.

(b) Conditions that are related to the safety of the work to be performed, that are listed in subsection (4)(f) through (h) of this section, and that are known to the host employer;

Note: For the purposes of this subsection, the host employer need only provide information to contract employers that the host employer can obtain from its existing records through the exercise of reasonable diligence. This subsection does not require the host employer to make inspections of worksite conditions to obtain this information.

(c) Information about the design and operation of the host employer's installation that the contract employer needs to make the assessments required by this chapter; and

Note: This subsection requires the host employer to obtain information about the design and operation of its installation that contract employers need to make required assessments if it does not have this information in existing records.

(d) Any other information about the design and operation of the host employer's installation that is known by the host employer, that the contract employer requests, and that is related to the protection of the contract employer's employees.

Note: For the purposes of this subsection, the host employer need only provide information to contract employers that the host employer can obtain from its existing records through the exercise of reasonable diligence. This subsection does not require the host employer to make inspections of worksite conditions to obtain this information.

(2) Contract employer responsibilities.

(a) The contract employer ((shall)) must ensure that each of its employees is instructed in the hazardous conditions relevant to the employee's work that the contract employer is aware of as a result of information communicated to the contract employer by the host employer under subsection (1) of this section.

(b) Before work begins, the contract employer ((shall)) must advise the host employer of any unique hazardous conditions presented by the contract employer's work.

(c) The contract employer ((shall)) must advise the host employer of any unanticipated hazardous conditions found during the contract employer's work that the host employer did not mention under subsection (1) of this section. The contract employer ((shall)) must provide this information to the host employer within two working days after discovering the hazardous condition.

(3) Joint host- and contract-employer responsibilities. The contract employer and the host employer ((shall)) must coordinate their work rules and procedures so that each employee of the contract employer and the host employer is protected as required by this section.

(4) Existing characteristics and conditions of the telecommunication site, facility, structure, lines or equipment that are related to the safety of the work to be performed ((shall)) must be determined before work on or near the site, facility, structure, lines or equipment is started. Such characteristics and conditions include, but are not limited to:

(a) The recent condition of poles and/or structures;

- (b) Environmental conditions relating to safety;
- (c) Any abnormalities compromising the integrity of the system;
- (d) Current structure analysis and engineering;
- (e) The presence of hazardous energy sources;
- (f) The nominal voltages of lines and equipment;
- (g) The locations of circuits and equipment, including electric supply lines, communication lines, and fire protective signaling circuits; and
- (h) The condition of protective grounds and equipment grounding conductors.

(5) All communication companies and entities operating, constructing and maintaining communication facilities within the state of Washington must design, construct, operate, and maintain their lines and equipment according to the requirements of:

- (a) The 2017 National Electrical Safety Code (NESC) (ANSI-C2).
- (b) ANSI/TIA 222-G-2005 for structures which have the primary purpose to serve as antenna supporting structures.
- (c) ANSI/TIA - 322, 2016 and ANSI/ASSE A10.48, 2016, Telecommunications construction standards.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22512 Accident prevention program and safety meetings. (1) Each employer ~~((shall))~~ must develop a written formal accident prevention program as outlined in WAC 296-800-140, tailored to the needs of the particular plant or operation and to the type of hazard involved.

Note: The department may be contacted for assistance in developing appropriate programs.

(2) If you employ eleven or more employees on the same shift and at the same location, you must establish a safety committee as required in WAC 296-800-13020.

(3) If you have ten or fewer employees or you have eleven or more employees that work on different shifts with ten or fewer employees on each shift or work in widely separate locations with ten or fewer employees at each location, you may have safety meetings.

(a) The employer ~~((shall))~~ must hold safety meetings at least once a month. Meetings ~~((shall))~~ must be held at a reasonable time and place as selected by the employer.

(b) The employer ~~((shall))~~ must require all employees subject to provisions of this chapter to attend said meetings.

Note: Provided the employees whose presence is otherwise required by reason of an emergency or whose function is such that they cannot leave their station or cease their work without serious detriment to the service provided.

(c) Rosters and topics discussed ~~((shall))~~ must be kept for each safety meeting and kept for a period of one year.

(4) For field work, every employer ~~((shall))~~ must conduct crew leader-crew safety meetings and job briefings as follows:

(a) Crew leader-crew safety meetings ~~((shall))~~ must be held at the beginning of each job, and at least weekly thereafter.

(b) Crew leader-crew meetings should be tailored to the particular operation.

(c) Crew leader-crew safety meetings ~~((shall))~~ must address the following:

- (i) Hazards associated with the job.
- (ii) Work procedures involved.
- (iii) Special precautions.
- (iv) Personal protective equipment requirements.
- (d) Attendance ~~((shall))~~ must be documented.
- (e) Subjects discussed ~~((shall))~~ must be documented.

(f) An employee working alone need not conduct a job briefing. However, the employer ~~((shall))~~ must ensure that the tasks to be performed are planned as if a briefing were required.

(5) It ~~((shall))~~ must be the responsibility of management to develop and maintain a written chemical hazard communication program as required by chapter 296-901 WAC, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22515 First aid. This section is designed to ~~((assure))~~ ensure that all employees in this state are afforded quick and effective first-aid attention in the event of an on-the-job injury.

(1) For fixed locations, the employer must make sure that first-aid trained personnel are available to provide prompt first aid. Designated first-aid trained personnel must have a valid first-aid certificate.

(2) For field work involving two or more employees at a work location, at least two trained persons holding a valid first-aid and CPR certificate ~~((shall))~~ must be available.

(3) Employees working alone must have basic first-aid training and hold a valid first-aid certificate.

(4) The first-aid kits and supplies requirements of the safety and health core rules, WAC 296-800-15020, apply within the scope of this chapter.

(5) When practical, a poster must be fastened and maintained either on or in the cover of each first-aid kit and at or near all phones plainly stating the worksite address or location, and the phone numbers of emergency medical responders for the worksite.

(6) All vehicles used to transport an employee or work crews must be equipped with first-aid supplies.

Note: A valid first-aid certificate can be in an electronic form.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22520 Remote communication sites. (1) During travel and access to remote locations the employer must ensure employees have emergency survival equipment during adverse weather conditions, i.e., winter/extreme winds, which may include, but not be limited to:

- (*) (a) Potable water and food.
- (*) (b) Reliable communication plan.

(2) The number of first-aid kits and supplies must reflect the degree of isolation, the number of employees, and the hazards reasonably anticipated at the worksite.

- Notes:**
- The following should be considered as first-aid supplies required when working at remote sites:
 - Gauze pads (at least 4 x 4 inches).
 - Two large gauze pads (at least 8 x 10 inches).
 - Box adhesive bandages (band-aids).
 - One package gauze roller bandage at least 2 inches wide.
 - Two triangular bandages.
 - Wound cleaning agent such as sealed moistened towelettes.
 - Scissors.
 - At least one blanket.
 - Tweezers.
 - Adhesive tape.
 - Latex gloves.
 - Resuscitation equipment such as resuscitation bag, airway, or pocket mask.
 - Two elastic wraps.
 - Splint.
 - Stretcher.
 - For additional information on first-aid kits and supplies see ANSI/ISEA Z308.1 - 2015.

(3) The employer must maintain the contents of each first-aid kit in a serviceable condition.

Note: Site specific rescue plan requirements are located in WAC 296-32-24005(5).

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22525 Training. (1) Employers (~~(shall)~~) must provide, document, and ensure that employees have received effective training in all of the processes, procedures, precautions, hazards, equipment, personal protective equipment, and safe work practices pertaining to this chapter and job assignments. The employer (~~(shall)~~) must ensure that employees do not engage in any activities related to this chapter and job assignments until the employees have received proper training.

(2) An employer may accept training records or certificates for previous training if the employer:

(a) Confirms the employee has the current training and knowledge applicable to the new employee's job duties, specific procedures, and equipment being used as required by this chapter.

(b) Uses an examination or interview to make an initial determination that the employee understands the relevant safety related work practices before the employee performs any work covered by this chapter.

(c) Supervises the employee closely until that employee has demonstrated proficiency as required by this chapter.

(3) The employer (~~(shall)~~) must determine, through regular supervision and through inspections conducted on at least an annual basis that each employee is complying with the safety-related work practices required by this chapter.

(4) The employer (~~(shall)~~) must maintain a training program that includes a list of the subject courses and the types of personnel required to receive such instruction. A written description of the training program and a record of employees who have received such training (~~(shall)~~) must be maintained for five years and (~~(shall)~~) must be made available

upon request to the director of the department of labor and industries, or his/her authorized representative. The individual who conducts the training must document and verify completion of training.

(5) Such training (~~(shall)~~) must, where appropriate, include the following subjects:

(a) Detailed training on specific work being performed by employees.

(b) Recognition and avoidance of dangers relating to encounters with harmful substances and related hazards, and animal, insect, or plant life.

(c) Procedures to be followed in emergency situations.

(6) "Retraining." When the employer has reason to believe that any employee who has already been trained does not have the understanding and skill, the employer (~~(shall)~~) must retrain that employee. Circumstances where retraining is required include, but are not limited to, situations where:

(a) Changes in the workplace render previous training obsolete;

(b) If new technology, new types of equipment, changes in procedures or job site necessitate the use of safety-related work practices that are different from those which the employee would normally use;

(c) If the supervision and routine inspections indicate that the employee is not complying with the safety-related work practices required by this chapter;

(d) Inadequacies in an employee's knowledge of safety-related work practices or use of equipment indicate that the employee has not retained the requisite understanding or skill; or

(e) If an employee is involved in an accident or near miss incident.

(f) Tasks that are performed less often than once per year will necessitate retraining before the performance of the work practices involved.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22530 Employee protection in public work areas. (1) Before work begins in the vicinity of vehicular or pedestrian traffic that may endanger employees:

(a) Traffic control signs, devices, and barriers must be positioned and used according to the requirements of chapter 296-155 WAC, Part E.

(b) When flaggers are used, employers, responsible contractors and/or project owners must comply with the requirements of WAC 296-155-305.

(2) During hours of darkness, warning lights must be prominently displayed and excavated areas must be enclosed with protective barricades.

(3) When work exposes energized or moving parts that are normally protected, danger signs (~~(shall)~~) must be displayed and barricades erected to warn other personnel in the area.

(4) The employer (~~(shall)~~) must ensure that an employee finding any crossed or fallen wires which create or may create a hazardous situation at the work area:

(a) Remains on guard or adopts other adequate means to warn other employees of the danger; and

(b) Has notified the proper authority or controlling utility at the earliest practical moment.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22535 Facilities requirements. (1) Buildings containing telecommunications facilities. See Table 1.

(a) Illumination. Lighting in telecommunication facilities ~~((shall))~~ **must** be provided in an amount such that continuing work operations, routine observations, and the passage of employees can be carried out in a safe and healthful manner.

(b) For specific tasks in facilities, such as splicing cable and the maintenance and repair of equipment frame lineups, the employer ~~((shall))~~ **must** install permanent lighting or portable supplemental lighting to attain a higher level of illumination.

(c) Minimum standards of illumination for industrial interiors must comply with WAC 296-800-210.

(d) Illumination of field work. Whenever natural light is insufficient to illuminate the worksite, artificial illumination ~~((shall))~~ **must** be provided to enable the employee to perform the work safely.

Table 1

Lighting Table		
Activity	Minimum acceptable average lighting level in an area: (Foot-candles)	Any one single measurement used to determine the average lighting level* cannot be less than: (Foot-candles)
Indoor task	10	5
Outdoor task	5	2.5
Nontask activities for both indoor and outdoor	3	1.5

* Lighting levels must be measured at thirty inches above the floor/working surface at the task.

(2) Working spaces.

(a) Space ~~((shall))~~ **must** be provided for access to all medium high and high voltage equipment. The width of the working space in front of the equipment must be the width of the equipment or thirty inches, whichever is greater.

(b) Every structure, new or old, designed for human occupancy ~~((shall))~~ **must** be provided with exits to permit the prompt escape of occupants in case of fire or other emergency. The means of egress ~~((shall))~~ **must** be a continuous and unobstructed way of exit travel from any point in a building or structure to a public way and consist of three separate and distinct parts; the way of exit access, the exit and the way of exit discharge. A means of egress comprises the vertical and horizontal ways of travel and ~~((shall))~~ **must** include inter-

vening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

(c) "Maintenance aisles," or "wiring aisles," between equipment frame lineups are working spaces and are not a means of egress for purposes of WAC 296-800-310.

(3) Special doors.

(a) When blastproof or power actuated doors are installed in specially designed hard site security buildings and spaces, they ~~((shall))~~ **must** be designed and installed so that they can be used as a means of egress in emergencies.

(b) When high voltage apparatus is isolated in a supplementary enclosure, interlocks ~~((shall))~~ **must** be provided on all access doors.

(c) Warning signs ~~((shall))~~ **must** be provided, which are visible both when the guard or cover is in place or removed.

(4) Power plant machinery in telecommunications facilities.

(a) When power plant machinery is operated with commutators and couplings uncovered, the adjacent housing ~~((shall))~~ **must** be clearly marked to alert personnel to the rotating machinery.

(b) "Employee working" signs, or similar wording ~~((shall))~~ **must** be placed on switches associated with motors or generators under repair.

(c) Before opening any power circuit, the load ~~((shall))~~ **must** be reduced.

(d) All power switches on power panels and disconnects ~~((shall))~~ **must** be in an open position and generator starting mechanisms disabled before maintenance or repair.

(e) When working on the brushes of a machine in operation, employees must use care not to break a circuit. When it is necessary to remove a brush from the holder, the machine must be shut down.

(f) Only fuse pullers specifically designed for that purpose ~~((shall))~~ **must** be used when replacing cartridge type fuses.

(5) Battery handling.

(a) Eye protection devices which provide side as well as frontal eye protection for employees ~~((shall))~~ **must** be provided when measuring storage battery specific gravity or handling electrolyte and the employer ~~((shall))~~ **must** ensure that such devices are used by the employees.

(b) The employer must ensure that appropriate acid resistant gloves, face shields, and aprons are worn for protection against spattering.

(c) Facilities for quick drenching or flushing of the eyes and body meeting the requirements of WAC 296-800-15030 ~~((shall))~~ **must** be provided while servicing or handling batteries, unless the storage batteries are of the enclosed type and equipped with explosion proof vents, in which case sealed water rinse or neutralizing packs may be substituted for the quick drenching or flushing facilities. Maintenance free batteries do not require an emergency eye wash if no electrolyte or water is added to the battery.

(d) Employees assigned to work with storage batteries ~~((shall))~~ **must** be instructed in emergency procedures such as dealing with accidental acid spills.

(e) Electrolyte (acid or base, and distilled water) for battery cells ~~((shall))~~ **must** be mixed in a well-ventilated room.

Acid or base ((shall)) must be poured gradually, while stirring, into the water. Water ((shall)) must never be poured into concentrated (greater than 75 percent) acid solutions. Electrolyte ((shall)) must never be placed in metal containers nor stirred with metal objects.

(f) When taking specific gravity readings, the open end of the hydrometer ((shall)) must be covered with an acid resistant material while moving it from cell to cell to avoid splashing or throwing the electrolyte.

(g) Ventilation ((shall)) must be provided to ensure diffusion of the ((gasses)) gases from the battery to prevent the accumulation of an explosive type mixture.

(h) Racks and trays ((shall)) must be substantial and treated to be resistant to the electrolyte.

(i) Floors ((shall)) must be of acid resistant construction or be protected from acid accumulation.

(6) Transportation and storage of compressed gas cylinders.

(a) Highway mobile vehicles and trailers stored in garages in accordance with WAC 296-24-47513 (4)(b), equipped to carry more than one LP-gas container, but the total capacity of LP-gas containers per work vehicle stored in garages ((shall)) must not exceed 100 pounds of LP-gas.

(b) All container valves, or other means that positively seals the container, ((shall)) must be closed when not in use.

(c) Special compartments, racks, or blocking ((shall)) must be provided and used to prevent cylinder movement when using or transporting nitrogen cylinders.

(d) Regulators ((shall)) must be removed or guarded before a cylinder is transported.

Notes: ((*) 1. Welding and cutting requirements are located in chapter 296-155 WAC, Part H.

((*) 2. Compressed gas and compressed gas equipment requirements are located in chapter 296-24 WAC, Parts I and K.

(7) Potable water.

(a) An adequate supply of potable water ((shall)) must be provided in all places of employment.

(b) Portable containers used to dispense drinking water ((shall)) must be capable of being tightly closed and equipped with a tap. Water ((shall)) must not be dipped from containers.

(c) Any container used to distribute drinking water ((shall)) must be clearly marked as to the nature of its contents and not used for any other purpose.

(d) A common drinking cup is prohibited.

(e) Where single service cups (to be used but once) are supplied, both a sanitary container for the unused cups and a receptacle for disposing of the used cups ((shall)) must be provided.

(f) All water containers used to furnish drinking water ((shall)) must be thoroughly cleaned at least once each week or more often as conditions require.

(g) The requirements of this subsection do not apply to mobile crews or to normally unattended work locations as long as employees working at these locations have transportation immediately available, within the normal course of their duties, to nearby facilities otherwise meeting the requirements of this section.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22540 Tools and personal protective equipment—General. (1) Personal protective equipment (PPE) - Hazard assessment. The employer must identify hazards or potential hazards in the workplace and determine if PPE is necessary on the job as required by WAC 296-800-16005 and 296-800-16010.

(2) PPE, protective devices and special tools needed for the work of employees ((shall)) must be provided and the employer ((shall)) must ensure that they are used by employees.

(a) PPE must be provided at no cost to the employee. See WAC 296-800-16020, Table-X: Employer responsibility for providing PPE.

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

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

(d) Metal tapes, ladders and ropes.

(i) Metal measuring tapes, metal ladders, metal measuring ropes, or tapes containing conductive strands ((shall)) must not be used when working near exposed energized parts.

(ii) Where it is necessary to measure clearances from energized parts, only nonconductive devices ((shall)) must be used.

(e) The use of any machinery, tool, material, or equipment which is not in compliance with any applicable requirements of this chapter is prohibited. Such machinery, tool, material, or equipment ((shall)) must either be identified as unsafe by tagging or locking the controls to render them inoperable or ((shall)) must be physically removed from its place of operation.

(3) Head protection.

(a) Head protection must meet the requirements of ANSI Z89.1-2014 American National Standard for Industrial Head Protection.

(b) Make sure employees wear appropriate protective helmets when exposed to hazards that could cause a head injury.

Note: Examples of this type of hazard include:

((*) 1. Flying or propelled objects.

((*) 2. Falling objects or materials.

((*) 3. Electrical hazards, Class E electrically rated.

(c) Tower workers.

(i) Must wear ANSI Z89.1-2014 Type I Class C climbing helmets while climbing and working at elevations.

(ii) Must wear head protection meeting the requirements of ANSI Z89.1-2014 while performing ground work with overhead hazard exposure.

(4) Eye protection. Employees ((shall)) must use eye and/or face protection where there is a possibility of injury that can be prevented by such personal protective equipment. In such cases, employers ((shall)) must make conveniently available a type of protection suitable for the work to be performed, and employees must use such protection.

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

(5) Foot protection.

(a) Substantial footwear, made of leather or other equally firm material, ~~((shall))~~ must be worn by employees in any occupation in which there is a danger of injury to the feet through falling or moving objects, or from burning, scalding, cutting, penetration, or like hazard.

(i) The soles and heels of such footwear ~~((shall))~~ must be of a material that will not create a slipping hazard.

(ii) Shoes made of leather or other firm materials that have soft athletic-type soles which would protect employees from foot injuries and at the same time, provide soft and firm footing while working under specialty requirements or with specialty materials are acceptable if meeting safety shoe requirements established by OSHA or ANSI.

(iii) Footwear that has deteriorated to a point where it does not provide the required protection ~~((shall))~~ must not be used.

(b) Traditional tennis shoes, shoes with canvas tops, or thin or soft soled athletic shoes, open toed sandals, slippers, dress shoes or other similar type shoes ~~((shall))~~ must not be worn. Soft or athletic-type soles with uppers of leather or other substantial material may be used where firm footing is desired and where minimal danger of injury to feet from falling or moving objects.

(c) Safety-toe footwear for employees ~~((shall))~~ must meet the requirements and specifications in ASTM, F2413-2011.

(6) Portable power equipment.

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

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

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

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

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

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

(c) All metallic encased tools and equipment that are powered from this system are equipped with 3-wire cords and grounding-type attachment plugs, except as designated in this subsection.

(d) Under the following conditions the frame of a vehicle may serve as the grounding electrode for a system supplied by a generator located on the vehicle:

(i) The frame of the generator is bonded to the vehicle frame;

(ii) The generator supplies only equipment located on the vehicle and/or cord-connected and plug-connected equipment through receptacles mounted on the vehicle or on the generator;

(iii) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame; and

(iv) The system complies with all other provisions of this section.

(e) Neutral conductor bonding. A neutral conductor ~~((shall))~~ must be bonded to the generator frame if the generator is a component of a separately derived system. No other conductor need be bonded to the generator frame.

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

(9) Fire extinguishers.

(a) Fire extinguishers ~~((shall))~~ must be provided for the protection of both the building structure and the occupancy hazards contained therein conforming to WAC 296-800-300.

(b) All vehicles in the field must have fire extinguishers when performing work that could cause an ignition source.

Note: Ignition sources include the following, but are not limited to:

- Welding;
- Cutting;
- Grinding;
- Generator use;
- CAD welding;
- Propane torches; or
- Smoking.

(c) Employees required to use fire extinguishers ~~((shall))~~ must be trained on the location and operation of fire extinguishers.

(d) Any fire extinguishers showing defects ~~((shall))~~ must be removed from service.

(e) Fire extinguishers ~~((shall))~~ must be thoroughly inspected monthly to ensure serviceability.

(f) Fire extinguishers ~~((shall))~~ must be inspected annually, recharged, or repaired to ensure reliability.

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

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

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22545 Capstan and cathead hoists. This section is to provide the minimum requirements for using a capstan hoist for overhead lifting or horizontal pulling during the construction and/or maintenance of communication equipment.

(1) All capstan hoist mechanisms ((~~shall~~) must) meet the applicable requirements for design, construction, installation, testing, inspection, maintenance and operations as prescribed by the manufacturer or the qualified person designing the system.

(2) Catheads or capstans ((~~shall~~) must) not be used to raise or lower personnel or to lift loads directly over personnel that are not directly involved with the lift.

(3) Training. Individuals operating a capstan hoist must be qualified through documented training and demonstrated proficiency. Training ((~~shall~~) must) include, but not be limited to, the following elements:

- (a) Anchorage loading;
- (b) Load testing;
- (c) Electrical loading;
- (d) Capstan load rating;
- (e) Types of synthetic rope;
- (f) Synthetic rope breaking strengths and safety factors;
- (g) Synthetic rope inspection;
- (h) Synthetic rope knots;
- (i) Capstan head alignment;
- (j) Inspection and maintenance;
- (k) Tag line force;
- (l) Solving overlap problems.

(4) The operator will be properly trained and proficient on the operation of catheads or capstans.

- (a) The operator must not wear loose clothing.
- (b) The operator must not stand in the bite of the pull line.

(5) Foot-operated controls must be located or guarded so that unintentional movement to the "ON" position is not possible.

(6) Inspection. The overall system ((~~shall~~) must) be inspected daily before each use. At a minimum, the inspection ((~~shall~~) must) include the drive train, drum and the anchorage.

(7) During operations, the following requirements must be met:

- (a) The electrical drive motor has the proper amount of amperage to operate efficiently with the correct size of breaker;
- (b) The extension cords used are the proper size and length;
- (c) The hydraulic system has proper pressure to ensure all the valves are operating properly and the hydraulic hoses are in good condition;
- (d) The gas engine is maintained properly and in good working order.

(8) Anchorage.

(a) There ((~~shall~~) must) be an appropriate anchorage for the size of the unit being used and the maximum expected load to be lifted.

(b) The anchorage ((~~shall~~) must) be load tested before operations start to 1.5 times the maximum anticipated hoist line pull, or the anchorage ((~~shall~~) must) be qualified based on engineering calculations utilizing a minimum safety factor of two.

(9) Rope.

(a) Only manufacturer approved rope or line ((~~shall~~) must) be used;

(b) Natural fiber rope ((~~shall~~) must) not be used;

(c) Polypropylene material ((~~shall~~) must) not be used;

(d) Frozen rope ((~~shall~~) must) not be used; and

(e) All ropes must be maintained and in good condition.

(f) Ropes ((~~shall~~) must) not be used if there is exposure to corrosive substances, chemicals or heat;

(g) A splice ((~~shall~~) must) not be able to contact the cat-head friction service (drum);

(h) Flat mule tape or its equivalent ((~~shall~~) must) not be used unless approved by the manufacturer.

(10) Rope replacement on the drum. In all situations the manufacturer's recommendations ((~~shall~~) must) be followed and at a minimum the rope ((~~shall~~) must) be placed as follows:

(a) A minimum of four wraps are required on the drum;

(b) The rope wraps ((~~shall~~) must) be installed on the drum with the load side on the inside of the drum closest to the motor;

(c) The pull side will be on the outside furthest away from the motor;

(d) The load weight lifted is defined by the number of rope wraps on the drum, type of rope material and the diameter of the rope.

(11) Rope replacement during operations.

(a) During operations there must be a plan for excess rope so that it does not get entangled with other objects or your feet.

(b) Before lifting begins, there must be a plan on how to tie off the load to hold it in place.

(12) Load test.

(a) A load test of the gross load ((~~shall~~) must) be performed.

(b) A rigging plan is required when performing vertical lifts per WAC 296-32-24020.

(c) A separate load test must be performed if the system is altered or rearranged.

(13) Communications and hand signals. The means of hand signals and communication will be determined before the job starts. The operator is responsible for the load during operations. The operator ((~~shall~~) must) have a clear view of the load being lifted and/or the hand signals of the person controlling the load. If there is no clear view, then an alternate method of communication ((~~shall~~) must) be used.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22550 Rubber insulating equipment.

(1) Rubber insulating equipment designed for the voltage levels to be encountered ((~~shall~~) must) be provided and the employer ((~~shall~~) must) ensure that they are used by employees as required by this section. The requirements of WAC 296-24-980 Safeguards for personnel protection, ((~~shall~~) must) be followed except for Table 2.

(2) The employer is responsible for periodic retesting of all insulating gloves, blankets, and other rubber insulating equipment. This retesting ((~~shall~~) must) be electrical, visual and mechanical. The following maximum retesting intervals ((~~shall~~) must) apply:

Table 2

Gloves, Blankets and Other Insulating Equipment	Natural Rubber (Months)	Synthetic Rubber (Months)
New	12	18
Reissued	9	15

(3) Protector for gloves. Approved protectors must be worn at all times over rubber gloves. Inner liners may be worn if desired.

Exception: Protector gloves need not be used with Class O gloves, under limited-use conditions less than 250 volts, where small equipment and parts manipulation necessitate unusually high finger dexterity.

Note: Extra care is needed in the visual examination of the glove and in the avoidance of handling sharp objects.

(4) Gloves and blankets shall must be marked to indicate compliance with the retest schedule and shall must be marked with the date the next test date is due. Any rubber gloves found to be defective shall must be removed from service and marked as being defective.

(5) Patching rubber goods is prohibited; rubber protective equipment shall must not be vulcanized or patched.

(6) A pair of rubber gloves shall must be issued and assigned to each employee when required to work on or be exposed to energized parts. Employees shall must not use or share gloves issued to another employee.

(7) Rubber gloves when not in use shall must be carried in an approved bag provided and designed for that purpose. It shall must be provided by the employer and made available to the employees.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22555 General fall protection. (1) The employer shall must ensure that all surfaces on which employees will be working or walking on are structurally sound and will support them safely prior to allowing employees to work or walk on them.

(2) Inspection criteria.

(a) All components (including hardware, lanyards, and positioning harnesses or full body harnesses depending on which system is used) of personal fall arrest systems, personal fall restraint systems and positioning device systems shall must be inspected prior to each use according to manufacturer's specifications for mildew, wear, damage, and other deterioration. Defective components shall must be removed from service if their function or strength has been adversely affected.

(b) Safety nets shall must be inspected at least once a week according to manufacturer's specifications for wear, damage, and other deterioration. Safety nets shall must also be inspected after any occurrence which could affect the integrity of the safety net system. Defective components shall must be removed from service. Defective nets shall must not be used.

(3) Personal fall arrest systems, personal fall restraint systems, positioning device systems, and their components shall must be used only for employee protection and not to hoist materials.

Figure 2

Examples of what personal fall arrest, personal fall restraint and positioning device systems look like:



Fall Arrest

Fall Restraint

Positioning

(4) Fall protection required regardless of height.

(a) Regardless of height, open sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment, such as water towers or roof tops and material handling equipment, and similar hazards shall must be guarded with a standard guardrail system.

(b) Floor holes or floor openings, into which persons can accidentally walk, shall must be guarded by either a standard railing with standard toe board on all exposed sides, or a cover of standard strength and construction that is secured against accidental displacement. While the cover is not in place, the floor hole opening shall must be protected by a standard railing.

Note: Requirements for when guarding floor openings at heights of four feet or more are located in subsection (5)(d) of this section.

(c) Regardless of height, employees shall must be protected from falling into or onto impalement hazards, such as: Reinforcing steel (rebar), or exposed steel or wood stakes used to set forms.

(5) Fall protection required at four feet or more.

(a) The employer shall must ensure that the appropriate fall protection system is provided, installed, and implemented according to the requirements in this part when employees are exposed to fall hazards of four feet or more to the ground or lower level when on a walking/working surface, towers, poles, or communication structures.

(b) Guarding of walking/working surfaces with unprotected sides and edges. Every open sided walking/working surface or platform four feet or more above adjacent floor or ground level shall must be guarded by one of the following fall protection systems.

(i) A standard guardrail system, or the equivalent, as specified in subsection (9)(b) of this section, on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing shall must be provided with a standard toe board wherever, beneath the open sides, persons can pass, there is moving machinery, or there is equipment with which falling materials could create a hazard.

(A) When employees are using stilts, the height of the top rail or equivalent member of the standard guardrail system must be increased (or additional railings may be added) an amount equal to the height of the stilts while maintaining the strength specifications of the guardrail system.

(B) Where employees are working on platforms above the protection of the guardrail system, the employer must either increase the height of the guardrail system as specified in (b)(i)(A) of this subsection, or select and implement another fall protection system as specified in (c), (d), (e), (f), or (g) of this subsection.

(C) When guardrails must be temporarily removed to perform a specific task, the area ~~((shall))~~ must be constantly attended by a monitor until the guardrail is replaced. The only duty the monitor ~~((shall))~~ must perform is to warn persons entering the area of the fall hazard.

(D) Guardrails and toe boards may be omitted on distribution frame mezzanine platforms to permit access to equipment. This exemption applies only on the side or sides of the platform facing the frames and only on those portions of the platform adjacent to equipped frames.

(ii) A fall restraint system;

(iii) A personal fall arrest system;

(iv) A safety net system;

(v) A catch platform; and

(vi) A warning line.

(c) Guarding of ramps, runways, and inclined walkways.

(i) Ramps, runways, and inclined walkways that are four feet or more above the ground or lower level ~~((shall))~~ must be equipped with a standard guardrail system or the equivalent, as specified in subsection (9)(b) of this section, along each open side. Wherever tools, machine parts, or materials are likely to be used on the runway, a toe board ~~((shall))~~ must also be installed on each open side to protect persons working or passing below.

(ii) Runways used exclusively for special purposes may have the railing on one side omitted where operating conditions necessitate such omission, provided the falling hazard is minimized by using a runway not less than eighteen inches wide.

(d) Guarding of floor openings.

(i) Floor openings ~~((shall))~~ must be guarded by one of the following fall restraint systems.

(A) A standard guardrail system, or the equivalent, as specified in subsection (9)(b) of this section, on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing ~~((shall))~~ must be provided with a standard toe board wherever, beneath the open sides, persons can pass, or there is moving machinery, or there is equipment with which falling materials could create a hazard.

(B) A cover, as specified in subsection (9)(c) of this section.

(C) A warning line system erected at least fifteen feet from all unprotected sides or edges of the floor opening and meets the requirements of subsection (9)(d) of this section.

(D) If it becomes necessary to remove the cover, the guardrail system, or the warning line system, then an employee ~~((shall))~~ must remain at the opening until the cover, guardrail system, or warning line system is replaced. The only duty the employee ~~((shall))~~ must perform is to prevent

exposure to the fall hazard by warning persons entering the area of the fall hazard.

(ii) Ladderway floor openings or platforms ~~((shall))~~ must be guarded by standard guardrail system with standard toe boards on all exposed sides, except at entrance to opening, with the passage through the railing either provided with a swinging gate or so offset that a person cannot walk directly into the opening.

(iii) Hatchways and chute floor openings ~~((shall))~~ must be guarded by one of the following:

(A) Hinged covers of standard strength and construction and a standard guardrail system with only one exposed side. When the opening is not in use, the cover ~~((shall))~~ must be closed or the exposed side ~~((shall))~~ must be guarded at both top and intermediate positions by removable standard guardrail systems.

(B) A removable standard guardrail system with toe board on not more than two sides of the opening and fixed standard guardrail system with toe boards on all other exposed sides. The removable railing ~~((shall))~~ must be kept in place when the opening is not in use and ~~((shall))~~ must be hinged or otherwise mounted so as to be conveniently replaceable.

(iv) Wherever there is a danger of falling through an unprotected skylight opening, or the skylight has been installed and is not capable of sustaining the weight of a minimum of eight hundred pounds or the maximum potential load with a safety factor of four, standard guardrails ~~((shall))~~ must be provided on all exposed sides in accordance with subsection (9)(b) of this section or the skylight ~~((shall))~~ must be covered in accordance with subsection (9)(c) of this section. Personal fall arrest equipment may be used as an equivalent means of fall protection when worn by all employees exposed to the fall hazard.

(v) Pits and trap door floor openings ~~((shall))~~ must be guarded by floor opening covers of standard strength and construction. While the cover is not in place, the pit or trap openings ~~((shall))~~ must be protected on all exposed sides by removable standard guardrail system.

(vi) Manhole floor openings ~~((shall))~~ must be guarded by standard covers which need not be hinged in place. While the cover is not in place, the manhole opening ~~((shall))~~ must be protected by standard guardrail system.

(e) Guarding of wall openings.

(i) Wall openings, from which there is a fall hazard of four feet or more, and the bottom of the opening is less than thirty-nine inches above the working surface, ~~((shall))~~ must be guarded as follows:

(A) When the height and placement of the opening in relation to the working surface is such that either a standard rail or intermediate rail will effectively reduce the danger of falling, one or both ~~((shall))~~ must be provided;

(B) The bottom of a wall opening, which is less than four inches above the working surface, regardless of width, ~~((shall))~~ must be protected by a standard toe board or an enclosing screen either of solid construction or as specified in subsection (9)(b)(iii) of this section.

(ii) An extension platform, outside a wall opening, onto which materials can be hoisted for handling ~~((shall))~~ must have standard guardrails on all exposed sides or equivalent.

One side of an extension platform may have removable railings in order to facilitate handling materials.

(iii) When a chute is attached to an opening, the provisions of (d)(iii) of this subsection ((~~shall~~)) must apply, except that a toe board is not required.

(f) Fall protection during form and rebar work. When exposed to a fall height of four feet or more, employees placing or tying reinforcing steel on a vertical face are required to be protected by personal fall arrest systems, safety net systems, or positioning device systems.

(g) Fall protection on steep pitched and low pitched roofs.

Steep pitched roofs. Regardless of the work activity, employers ((~~shall~~)) must ensure that employees exposed to fall hazards of four feet or more while working on a roof with a pitch greater than four in twelve use one of the following:

(i) Fall restraint system. Warning line systems are prohibited on steep pitched roofs;

(ii) Fall arrest system; or

(iii) Positioning device system.

(h) Low pitched roofs. Employers ((~~shall~~)) must ensure that employees exposed to fall hazards of four feet or more while engaged in telecommunications work on low pitched roofs use one of the following:

(i) Fall restraint system;

(ii) Fall arrest system;

(iii) Positioning device system;

(iv) Warning line system;

(v) Safety watch system, see subsection (10) of this section for safety watch specifications.

(i) Hazardous slopes. Employees exposed to falls of four feet or more while working on a hazardous slope ((~~shall~~)) must use personal fall restraint systems or positioning device systems.

(j) Working on any surface four feet or more that does not meet the definition of a walking/working surface not already covered in this subsection (5);

(6) Excavation and trenching operations.

(a) Exceptions. Fall protection is not required at excavations four feet or more when employees are:

(i) Directly involved with the excavation process and on the ground at the top edge of the excavation; or

(ii) Working at an excavation site where appropriate sloping of side walls has been implemented as the excavation protective system.

(b) Fall protection is required for employees standing in or working in the affected area of a trench or excavation exposed to a fall hazard of ten feet or more and:

(i) The employees are not directly involved with the excavation process; or

(ii) The employees are on the protective system or any other structure in the excavation.

Note: Persons considered directly involved in the excavation process include:

((~~*)~~) 1. Foreman of the crew.

((~~*)~~) 2. Signal person.

((~~*)~~) 3. Employee hooking on pipe or other materials.

((~~*)~~) 4. Grade person.

((~~*)~~) 5. State, county, or city inspectors inspecting the excavation or trench.

((~~*)~~) 6. An engineer or other professional conducting a quality-assurance inspection.

(7) Fall protection work plan. The employer ((~~shall~~)) must develop and implement a written fall protection work plan including each area of the work place where the employees are assigned and where fall hazards of ten feet or more exist.

(a) The fall protection work plan ((~~shall~~)) must:

(i) Identify all fall hazards in the work area;

(ii) Describe the method of fall arrest or fall restraint to be provided;

(iii) Describe the proper procedures for the assembly, maintenance, inspection, and disassembly of the fall protection system to be used;

(iv) Describe the proper procedures for the handling, storage, and securing of tools and materials;

(v) Describe the method of providing overhead protection for employees who may be in, or pass through the area below the worksite;

(vi) Describe the method for prompt, safe removal of injured employees; and

(vii) Be available on the job site for inspection by the department.

(b) Prior to permitting employees into areas where fall hazards exist the employer ((~~shall~~)) must ensure employees are trained and instructed in the items described in (a)(i) through (vii) of this subsection.

(8) Fall arrest specifications. Fall arrest protection ((~~shall~~)) must conform to the following provisions:

(a) Personal fall arrest system ((~~shall~~)) must consist of:

(i) A full body harness ((~~shall~~)) must be used.

(ii) Full body harness systems or components subject to impact loading ((~~shall~~)) must be immediately removed from service and ((~~shall~~)) must not be used again for employee protection unless inspected and determined by a competent person to be undamaged and suitable for reuse.

(iii) Anchorages for full body harness systems ((~~shall~~)) must be capable of supporting (per employee):

(A) Three thousand pounds when used in conjunction with:

(I) A self-retracting lifeline that limits the maximum free fall distances to two feet or less; or

(II) A shock absorbing lanyard that restricts the forces on the body to nine hundred pounds or less.

(B) Five thousand pounds for all other personal fall arrest system applications, or they ((~~shall~~)) must be designed, installed, and used:

(I) As a 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.

(iv) When stopping a fall, personal fall arrest systems must:

(A) Be rigged to allow a maximum free fall distance of six feet so an employee will not contact any lower level;

(B) Limit maximum arresting force on an employee to one thousand eight hundred pounds (8 kN);

(C) Bring an employee to a complete stop and limit maximum deceleration distance an employee travels to three and one-half feet (1.07 m); and

(D) Have sufficient strength to withstand twice the potential impact energy of an employee free falling a maximum distance of six feet (1.8 m).

Note: Shock absorbers that meet the requirements of ANSI Z359.13-2013 that are used as a part of a personal fall arrest system in accordance with manufacturer's recommendations and instructions for use and installation will limit the maximum arresting forces on an employee's body to one thousand eight hundred pounds or less.

(v) All safety lines and lanyards ~~((shall))~~ **must** be protected against being cut or abraded.

(vi) The attachment point of the full body harness ~~((shall))~~ **must** be located in the center of the wearer's back near shoulder level, or above the wearer's head.

(vii) Hardware ~~((shall))~~ **must** be drop forged, pressed or formed steel, or made of materials equivalent in strength.

(viii) Hardware ~~((shall))~~ **must** have a corrosion resistant finish, and all surfaces and edges ~~((shall))~~ **must** be smooth to prevent damage to the attached full body harness or lanyard.

(ix) When vertical lifelines (droplines) are used, not more than one employee shall be attached to any one lifeline.

Note: The system strength needs in the following items are based on a total combined weight of employee and tools of no more than three hundred ten pounds. If combined weight is more than three hundred ten pounds, appropriate allowances must be made or the system will not be in compliance. For more information on system testing, see ((WAC 296-24-88050 Appendix C—Personal fall arrest system (Part I—Mandatory; Parts II and III—Nonmandatory))) chapter 296-880 WAC, Unified safety standards for fall protection.

(x) Vertical lifelines (droplines) ~~((shall))~~ **must** have a minimum breaking strength of five thousand pounds (22.2 kN), except that self-retracting lifelines and lanyards which automatically limit free fall distance to two feet (.61 m) or less ~~((shall))~~ **must** have a minimum breaking strength of three thousand pounds (13.3 kN).

(xi) Horizontal lifelines ~~((shall))~~ **must** be designed, installed, and used, under the supervision of a qualified person, as part of a complete personal fall arrest system, which maintains a safety factor of at least two.

(xii) Droplines or lifelines used on rock scaling operations, or in areas where the lifeline may be subjected to cutting or abrasion, ~~((shall))~~ **must** be a minimum of seven-eighths inch wire core manila rope or equivalent. For all other lifeline applications, a minimum of three-fourths inch manila rope or equivalent, with a minimum breaking strength of five thousand pounds, ~~((shall))~~ **must** be used.

(xiii) Lanyards ~~((shall))~~ **must** have a minimum breaking strength of five thousand pounds (22.2 kN).

(xiv) All components of full body harness systems whose strength is not otherwise specified in this subsection ~~((shall))~~ **must** be capable of supporting a minimum fall impact load of five thousand pounds (22.2 kN) applied at the lanyard point of connection.

(xv) D-rings and snap hooks ~~((shall))~~ **must** be proof-tested to a minimum tensile load of three thousand six hundred pounds (16 kN) without cracking, breaking, or taking permanent deformation.

(xvi) Snap hooks ~~((shall))~~ **must** be a locking type snap hook designed and used to prevent disengagement of the snap

hook by the contact of the snap hook keeper by the connected member.

(xvii) Unless the snap hook is designed for the following connections, snap hooks ~~((shall))~~ **must** not be engaged:

(A) Directly to the webbing, rope or wire rope;

(B) To each other;

(C) To a D-ring to which another snap hook or other connector is attached;

(D) To a horizontal lifeline; or

(E) To any object which is incompatibly shaped or dimensioned in relation to the snap hook such that unintentional disengagement could occur by the connected object being able to depress the snap hook keeper and release itself.

(b) Safety net systems. Safety net systems and their use ~~((shall))~~ **must** comply with the following provisions:

(i) Safety nets ~~((shall))~~ **must** be installed as close as practicable under the surface on which employees are working, but in no case more than thirty feet (9.1 m) below such level unless specifically approved in writing by the manufacturer. The potential fall area to the net ~~((shall))~~ **must** be unobstructed.

(ii) Safety nets ~~((shall))~~ **must** extend outward from the outermost projection of the work surface as follows in Table 3:

Table 3

Vertical distance from working levels to horizontal plane of net	Minimum required horizontal distance of outer edge of net from the edge of the working surface
Up to 5 feet	8 feet
More than 5 feet up to 10 feet	10 feet
More than 10 feet	13 feet

(iii) Safety nets ~~((shall))~~ **must** be installed with sufficient clearance under them to prevent contact with the surface or structures below when subjected to an impact force equal to the drop test specified in (b)(iv) of this subsection.

(iv) Safety nets and their installations ~~((shall))~~ **must** be capable of absorbing an impact force equal to that produced by the drop test.

(A) Except as provided in (b)(iv)(B) of this subsection, safety nets and safety net installations ~~((shall))~~ **must** be drop-tested at the job site after initial installation and before being used as a fall protection system, whenever relocated, after major repair, and at six-month intervals if left in one place. The drop-test ~~((shall))~~ **must** consist of a four hundred pound (180 kg) bag of sand 30 ± 2 inches (76 ± 5 cm) in diameter dropped into the net from the highest walking/working surface at which employees are exposed to fall hazards, but not from less than forty-two inches (1.1 m) above that level.

(B) When the employer can demonstrate that it is unreasonable to perform the drop-test required by (b)(iv)(A) of this subsection, the employer (or a designated competent person) ~~((shall))~~ **must** certify that the net and net installation is in compliance with (b)(iii) and (iv)(A) of this subsection by preparing a certification record prior to the net being used as a fall protection system. The certification record must include

an identification of the net and net installation for which the certification record is being prepared; the date that it was determined that the identified net and net installation were in compliance with (b)(iii) of this subsection and the signature of the person making the determination and certification. The most recent certification record for each net and net installation must be available at the job site for inspection.

(v) Materials, scrap pieces, equipment, and tools which have fallen into the safety net must be removed as soon as possible from the net and at least before the next work shift.

(vi) The maximum size of each safety net mesh opening must not exceed thirty-six square inches (230 cm²) nor be longer than six inches (15 cm) on any side, and the opening, measured center-to-center of mesh ropes or webbing, must not be longer than six inches (15 cm). All mesh crossings must be secured to prevent enlargement of the mesh opening.

(vii) Each safety net (or section of it) must have a border rope or webbing with a minimum breaking strength of five thousand pounds (22.2 kN).

(viii) Connections between safety net panels must be as strong as integral net components and must be spaced not more than six inches (15 cm) apart.

(c) Catch platforms.

(i) A catch platform must be installed within four vertical feet of the work area.

(ii) The catch platform's width must be a minimum of forty-five inches wide and must be equipped with standard guardrails and toe boards on all open sides and must be capable of supporting a minimum of eight hundred pounds or the maximum potential load, with a safety factor of four.

(9) Fall restraint specifications. Fall restraint protection must conform to the following provisions:

(a) Personal fall restraint systems must be rigged to allow the movement of employees only as far as the unprotected sides and edges of the walking/working surface, and must consist of:

(i) A full body harness must be used.

(ii) The full body harness must be attached to securely rigged restraint lines.

(iii) All hardware assemblies for full body harness must be capable of withstanding a tension loading of four thousand pounds without cracking, breaking, or taking a permanent deformation.

(iv) The employer must ensure component compatibility.

(v) Anchorage points used for fall restraint must be capable of supporting four times the intended load.

(vi) Rope grab devices are prohibited for fall restraint applications unless they are part of a fall restraint system designed specifically for the purpose by the manufacturer, and used in strict accordance with the manufacturer's recommendations and instructions.

(b) Guardrail specifications.

(i) A standard guardrail system must consist of top rail, intermediate rail, and posts, and must have a vertical height of thirty-nine to forty-five inches from upper surface of top rail to floor, platform, runway, or ramp level.

When conditions warrant, the height of the top edge may exceed the forty-five inch height, provided the guardrail system meets all other criteria of this subsection. The intermediate rail must be halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails must not overhang the terminal posts except where such overhang does not constitute a projection hazard.

(ii) Minimum requirements for standard guardrail systems under various types of construction are specified in the following items:

(A) For wood railings, the posts must be of at least two-inch by four-inch stock spaced not to exceed eight feet; the top rail must be of at least two-inch by four-inch stock and each length of lumber must be smooth surfaced throughout the length of the railing. The intermediate rail must be of at least one-inch by six-inch stock. Other configurations may be used for the top rail when the configuration meets the requirements of (b)(ii)(G) of this subsection.

(B) For pipe railings, posts and top and intermediate railings must be at least one and one-half inches nominal OD diameter with posts spaced not more than eight feet on centers. Other configurations may be used for the top rail when the configuration meets the requirements of (b)(ii)(G) of this subsection.

(C) For structural steel railings, posts and top and intermediate rails must be of two-inch by two-inch by three-eighths inch angles or other metal shapes of equivalent bending strength, with posts spaced not more than eight feet on centers. Other configurations may be used for the top rail when the configuration meets the requirements of (b)(ii)(G) of this subsection.

(D) For wire rope railings, the top and intermediate railings must meet the strength factor and deflection of (b)(ii)(E) of this subsection. The top railing must be flagged at not more than six foot intervals with high-visibility material. Posts must be spaced not more than eight feet on centers. The rope must be stretched taut and must be between thirty-nine and forty-five inches in height at all points. Other configurations may be used for the top rail when the configuration meets the requirements of (b)(ii)(G) of this subsection.

(E) The anchoring of posts and framing of members for railings of all types must be of such construction that the completed structure must be capable of withstanding a load of at least two hundred pounds applied in any direction at any point on the top rail. The top rail must be between thirty-nine and forty-five inches in height at all points when this force is applied.

(F) Railings receiving heavy stresses from employees trucking or handling materials must be provided additional strength by the use of heavier stock, closer spacing of posts, bracing, or by other means.

(G) Other types, sizes, and arrangements of railing construction are acceptable, provided they meet the following conditions:

(I) A smooth surfaced top rail at a height above floor, platform, runway, or ramp level between thirty-nine and forty-five inches;

(II) When the two hundred pound (890 N) load specified in (b)(ii)(E) of this subsection is applied in a downward direction, the top edge of the guardrail ((~~shall~~) must) not deflect to a height less than thirty-nine inches (1.0 m) above the walking/working level. Guardrail system components selected and constructed in accordance with this part will be deemed to meet this requirement;

(III) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(IV) Elimination of overhang of rail ends unless such overhang does not constitute a hazard.

(iii) Toe board specifications.

(A) A standard toe board ((~~shall~~) must) be a minimum of four inches nominal in vertical height from its top edge to the level of the floor, platform, runway, or ramp. It ((~~shall~~) must) be securely fastened in place with not more than one-quarter inch clearance above floor level. It may be made of any substantial material, either solid, or with openings not over one inch in greatest dimension.

(B) Where material is piled to such height that a standard toe board does not provide protection, paneling, or screening from floor to intermediate rail or to top rail ((~~shall~~) must) be provided.

(c) Cover specifications.

(i) Floor opening or floor hole covers ((~~shall~~) must) be of any material that meets the following strength requirements:

(A) Conduits, trenches, and manhole covers and their supports, when located in roadways, and vehicular aisles ((~~shall~~) must) be designed to carry a truck rear axle load of at least two times the maximum intended load;

(B) All floor opening and floor hole covers ((~~shall~~) must) be capable of supporting, without failure a minimum of eight hundred pounds or the maximum potential load, with a safety factor of four.

(I) All covers ((~~shall~~) must) be secured when installed so as to prevent accidental displacement by the wind, equipment, or employees.

(II) All covers ((~~shall~~) must) be color coded or they ((~~shall~~) must) be marked with the word "hole" or "cover" to provide warning of the hazard.

(ii) Barriers and screens used to cover wall openings ((~~shall~~) must) meet the following requirements:

(A) Barriers ((~~shall~~) must) be of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least two hundred pounds applied in any direction (except upward), with a minimum of deflection at any point on the top rail or corresponding member.

(B) Screens ((~~shall~~) must) be of such construction and mounting that they are capable of withstanding a load of at least two hundred pounds applied horizontally at any point on the near side of the screen. They may be of solid construction of either grill work with openings not more than eight inches long, or of slat work with openings not more than four inches wide with length unrestricted.

(d) Warning line system specifications on pitches four in twelve or less for telecommunications work, and on low pitched open sided surfaces for work activities. The employer ((~~shall~~) must) ensure the following:

(i) Warning lines ((~~shall~~) must) be erected around all unprotected sides and edges of the work area during telecommunications work.

(A) When telecommunications work is taking place or when mechanical equipment is not being used, the warning line ((~~shall~~) must) be erected not less than six feet (1.8 m) from the edge of the roof.

(B) When mechanical equipment is being used, the warning line ((~~shall~~) must) be erected not less than six feet (1.8 m) from the roof edge which is parallel to the direction of mechanical equipment operation, and not less than ten feet (3.1 m) from the roof edge which is perpendicular to the direction of mechanical equipment operation.

(C) The employer ((~~shall~~) must) ensure that warning line systems are not used in adverse weather or in hours of darkness.

(ii) The warning line ((~~shall~~) must) consist of a rope, wire, or chain and supporting stanchions erected as follows:

(A) The rope, wire, or chain ((~~shall~~) must) be flagged at not more than six foot (1.8 m) intervals with high visibility material. Highly visible caution or danger tape as described in (d)(ii)(D) of this subsection, does not need to be flagged.

(B) The rope, wire, or chain ((~~shall~~) must) be rigged and supported in such a way that its lowest point (including sag) is no less than thirty-six inches from the surface and its highest point is no more than forty-five inches from the surface.

(C) After being erected, with the rope, wire or chain attached, stanchions ((~~shall~~) must) be capable of resisting, without tipping over, a force of at least sixteen pounds (71 N) applied horizontally against the stanchion, thirty inches (0.76 m) above the surface, perpendicular to the warning line, and in the direction of the unprotected sides or edges of the surface.

(D) The rope, wire, or chain ((~~shall~~) must) have a minimum tensile strength of five hundred pounds ((~~226 kg~~) 2.22 kN), and after being attached to the stanchions, ((~~shall~~) must) be capable of supporting, without breaking, the loads applied to the stanchions.

(E) The line ((~~shall~~) must) be attached at each stanchion in such a way that pulling on one section of the line between stanchions will not result in slack being taken up in adjacent sections before the stanchion tips over.

(iii) Access paths ((~~shall~~) must) be erected as follows:

(A) Points of access, materials handling areas, and storage areas ((~~shall~~) must) be connected to the work area by a clear access path formed by two warning lines.

(B) When the path to a point of access is not in use, a rope, wire, or chain, equal in strength and height to the warning line, ((~~shall~~) must) be placed across the path at the point where the path intersects the warning line erected around the work area.

(e) When work is being performed between the warning line and edge of the roof the employee must maintain 100 percent fall protection by fall restraint or fall arrest.

(10) Safety watch system specifications.

(a) When one employee is conducting any testing, servicing of equipment or repair work on a roof that has a pitch no greater than four in twelve, and not within six feet of the roof's edge, employers are allowed to use a safety watch system.

(b) Ensure the safety watch system meets the following requirements:

(i) There can only be two people on the roof while the safety watch system is being used: The one employee acting as the safety watch and the one employee engaged in the repair work or servicing equipment;

(ii) The employee performing the task must comply promptly with fall hazard warnings from the safety watch;

(iii) Mechanical equipment is not used; and

(iv) The safety watch system is not used when weather conditions create additional hazards or in the hours of darkness.

(c) Ensure the employee acting as the safety watch meets all of the following:

(i) Is a competent person as defined in WAC 296-32-210;

(ii) Has full control over the work as it relates to fall protection;

(iii) Has a clear, unobstructed view of the worker;

(iv) Is able to maintain normal voice communication; and

(v) Performs no other duties while acting as the safety watch.

(11) Other specifications.

(a) Ramps, runways and inclined walkways ~~((shall))~~ must:

(i) Be at least eighteen inches wide; and

(ii) Not be inclined more than twenty degrees from horizontal and when inclined, they ~~((shall))~~ must be cleated or otherwise treated to prevent a slipping hazard on the walking surface.

Note: See WAC 296-32-22555 (5)(c) for guarding ramps, runways, and inclined walkways that are four feet or more above the ground or lower level.

(b) Self-rescue devices. Self-rescue devices are not a fall protection system. Self-rescue devices used to self-rescue after a fall ~~((shall))~~ must meet the following requirements:

(i) Use self-rescue devices according to the manufacturer's instructions; and

(ii) Self-rescue devices must be addressed by the fall protection work plan.

(c) Canopy. Canopies, when used as falling object protection, ~~((shall))~~ must be strong enough to prevent collapse and to prevent penetration by any objects which may fall onto the canopy.

(d) Roofing bracket specifications. Roofing brackets are not a fall protection system.

(i) Roofing brackets ~~((shall))~~ must be constructed to fit the pitch of the roof.

(ii) In addition to securing brackets using the pointed metal projections, brackets ~~((shall))~~ must also be secured in place by nailing. When it is impractical to nail brackets, rope supports ~~((shall))~~ must be used. When rope supports are used, they ~~((shall))~~ must consist of first grade manila of at least three-quarters inch diameter, or equivalent.

(e) Roof edge materials handling areas and materials storage specifications.

(i) When guardrails are used at hoisting areas, a minimum of four feet of guardrail ~~((shall))~~ must be erected along

each side of the access point through which materials are hoisted.

(ii) A chain or gate ~~((shall))~~ must be placed across the opening between the guardrail sections when hoisting operations are not taking place.

(iii) When guardrails are used at bitumen pipe outlet, a minimum of four feet of guardrail ~~((shall))~~ must be erected along each side of the pipe.

(iv) Mechanical equipment ~~((shall))~~ must be used or stored only in areas where employees are protected using a fall arrest system as described in WAC 296-32-22555(8), or a fall restraint system as described in WAC 296-32-22555 (9)(b) or (d). Mechanical equipment may not be used or stored where the only protection is provided by the use of a safety monitor.

(v) The hoist ~~((shall))~~ must not be used as an attachment/anchorage point for fall arrest or fall restraint systems.

(vi) Materials ~~((shall))~~ must not be stored within six feet of the roof edge unless guardrails are erected at the roof edge. Guardrails ~~((shall))~~ must include a toe board if employees could be working or passing below.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22560 Ladders. (1) The employer ~~((shall))~~ must ensure that no employee nor any material or equipment ~~((shall))~~ must be supported or permitted to be supported on any portion of a ladder unless it is first determined, by inspections and checks conducted by a competent person that such ladder is free of defects, in good condition and secured in place.

(2) The spacing between steps or rungs permanently installed on poles and towers ~~((shall))~~ must be no more than eighteen inches (thirty-six inches on any one side). This requirement also applies to fixed ladders on towers, when towers are so equipped. Spacing between steps ~~((shall))~~ must be uniform above the initial unstepped section, except where working, standing, or access steps are required. Fixed ladder rungs and step rungs for poles and towers ~~((shall))~~ must have a minimum diameter of 5/8 inch. Fixed ladder rungs ~~((shall))~~ must have a minimum clear width of twelve inches. Steps for poles and towers ~~((shall))~~ must have a minimum clear width of 4 1/2 inches. The spacing between detachable steps may not exceed thirty inches on any one side, and these steps ~~((shall))~~ must be secured when in use.

(3) Portable wood ladders intended for general use must not be painted, but may be coated with a translucent nonconductive coating. Portable wood ladders must not be longitudinally reinforced with metal.

(4) Portable wood and fiberglass ladders that are not being carried on vehicles and are not in active use ~~((shall))~~ must be stored where they will not be exposed to the elements and where there is good ventilation.

(5) Aluminum or conductive ladders may not be used on a work site that contains potential electrical hazards.

(6) Rolling ladders.

(a) Rolling ladders used in telecommunication facilities ~~((shall))~~ must have a width between the side rails, inside to inside, of at least twelve inches.

(b) Except in working spaces that are not a means of egress, the ladders ~~((shall))~~ must have a minimum inside width, between the side rails, of at least eight inches.

(7) Climbing ladders or stairways on scaffolds used for access and egress ~~((shall))~~ must be affixed or built into the scaffold by proper design and engineering, and ~~((shall))~~ must be so located that their use will not disturb the stability of the scaffold. The rungs of the climbing device ~~((shall))~~ must be equally spaced, but may not be less than twelve inches nominal nor more than sixteen inches nominal apart. Horizontal end rungs used for platform support may also be utilized as a climbing device if such rungs meet the spacing requirement of this subsection, and if clearance between the rung and the edge of the platform is sufficient to afford a secure handhold. If a portable ladder is affixed to the scaffold, it ~~((shall))~~ must be securely attached and ~~((shall))~~ must have rungs meeting the spacing requirements of this subsection. Clearance ~~((shall))~~ must be provided in the back of the ladder of not less than six inches from center of rung to the nearest scaffold structural member.

(8) When using ladder hooks: Employees must secure themselves to the ladder and aerial strand by:

- (a) A lineman's belt and strap; or
- (b) Ladder safety equipment if provided.
- (9) Portable ladders, when in use, ~~((shall))~~ must be:
 - (a) Equipped with safety shoes; and
 - (b) Equipped with properly adjusted locking levelers when working on uneven ground.

(10) Ladders ~~((shall))~~ must be inspected by a competent person prior to each use. Ladders which have developed defects ~~((shall))~~ must be withdrawn from service for repair or destruction and tagged or marked as "dangerous do not use."

(11) Persons on ladders. Ladders must not be moved, shifted or adjusted while anyone is on the ladder. Secure the ladder at the top and bottom when working from it.

Note: See chapter 296-876 WAC for additional safety requirements on ladders.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22565 Vehicle-mounted material handling devices and other mechanical equipment. (1) General. The applicable operator/owner safety manual for vehicle-mounted material handling devices and other mechanical equipment must be followed. The manufacturer's operator's instructional manual ~~((shall))~~ must be kept on the vehicle.

(a) The operation of all motor vehicles and trailers ~~((shall))~~ must be in conformance with the motor vehicle laws, the general safety and health standards of the state of Washington and all local traffic ordinances.

(b) The employer must ensure that prior to use, visual inspections are made of the equipment by a competent person/operator each day the equipment is to be used to ascertain that it is in good condition.

(c) The employer must ensure that tests ~~((shall))~~ will be made at the beginning of each shift by a competent person to ensure the vehicle brakes and all operating systems are in proper working condition.

(2) Scrapers, loaders, dozers, graders and tractors. All mobile, self-propelled scrapers, mobile front end loaders, mobile dozers, agricultural and industrial tractors, crawler tractors, crawler-type loaders, and motor graders used in telecommunications work ~~((shall))~~ must have rollover protective structures that meet the requirements of WAC 296-155-950 through 296-155-965, and the requirements of WAC 296-155-615 (1) through (2)(c).

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22572 Microwave transmission/radio frequency radiation (RFR) and laser communication—General requirements. (1) General. Employers ~~((shall))~~ must ensure that employees performing work on communication sites/facilities are not exposed to radio frequency (RFR) electromagnetic fields in excess of the Federal Communications Commission (FCC) maximum permissible exposure (MPE) limits for exposure as prescribed in 47 C.F.R. 1.1310.

Note: See chart in WAC 296-32-210 under the definition of "nonionizing radiation (RFR)."

(2) RF safety program. The employer ~~((shall))~~ must establish and maintain a program for the control and monitoring of nonionizing radiation hazards. This program ~~((shall))~~ must provide employees adequate supervision, training, facilities, equipment, and supplies, for the control and assessment of nonionizing hazards.

(3) Prior to commencing work where there are potential RFR hazards, a competent person ~~((shall))~~ must assess potential RFR hazards of areas which may be accessed by employees in the course of their work, and post temporary signage to indicate areas where the RFR hazard exceeds the general population/uncontrolled MPE limits for exposure set forth in 47 C.F.R. 1.1310. Temporary signage ~~((shall))~~ must remain in place while work is performed and the hazard exists.

Note: Temporary signage posting areas may include doorways, gates, or hatches.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22574 Hazardous areas. Protection from radiation exposure.

(1) Employees ~~((shall))~~ must not enter areas where radio frequency radiation (RFR) exposure levels are above the general population/uncontrolled MPEs described in 47 C.F.R. 1.1310 unless they understand the potential for exposure and can exercise control over the exposure.

(2) Hazardous area. Accessible areas associated with communication systems where the electromagnetic radiation level exceeds the maximum permissible exposure limits (PELs) given in WAC 296-62-09005 ~~((shall))~~ must be posted as described in that section.

Note: ANSI 535.1, 2006, Safety Colors, ANSI C95.2, 1999, IEEE Standard for Radio Frequency Energy and Current Flow Symbols, ANSI Z535.2, 2011, Environmental and Safety Signs contains additional information relating to signage.

(3) Protective measures. When an employee works in an area where the electromagnetic radiation exceeds the radia-

tion protection guide, the employer (~~shall~~) must institute measures that ensure that the employee's exposure is not greater than that permitted by the radiation guide. Such measures (~~shall~~) must include, but not be limited to, those of an administrative or engineering nature or those involving personal protective equipment. Employers must have monitoring devices on each site while work is being performed.

(4) Radiofrequency radiation exposure limits. The criteria listed in Table 4 (~~shall~~) must be used to evaluate the environmental impact of human exposure to radiofrequency (RF) radiation as specified in 47 C.F.R. Sec. 1.1307(b), except in the case of portable devices which (~~shall~~) must be evaluated according to the provisions of 47 C.F.R. Sec. 2.1093. Further information on evaluating compliance with these limits can be found in the FCC's OST/OET Bulletin Number 65, "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radia-

tion." **Note to Introductory Paragraph:** These limits are generally based on recommended exposure guidelines published by the National Council on Radiation Protection and Measurements (NCRP) in "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," NCRP Report No. 86, sections 17.4.1, 17.4.1.1, 17.4.2 and 17.4.3. Copyright NCRP, 1986, Bethesda, Maryland 20814. In the frequency range from 100 MHz to 1500 MHz, exposure limits for field strength and power density are also generally based on guidelines recommended by the American National Standards Institute (ANSI) in section 4.1 of "IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," ANSI/IEEE C95.1-1992, Copyright 1992 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York 10017.

Table 4

Table 4—Limits for Maximum Permissible Exposure (MPE) Frequency range (MHz)	Electric field strength (V/m)	Magnetic field strength (A/m)	Power density (mW/cm ²)	Averaging time (minutes)
(A) Limits for Occupational/Controlled Exposures				
0.3-3.0	614	1.63	*(100)	6
3.0-30	1842/f	4.89/f	*(900/f ²)	6
30-300	61.4	0.163	1.0	6
300-1500			f/300	6
1500-100,000			5	6
(B) Limits for General Population/Uncontrolled Exposure				
0.3-1.34	614	1.63	*(100)	30
1.34-30	824/f	2.19/f	*(180/f ²)	30
30-300	27.5	0.073	0.2	30
300-1500			f/1500	30
1500-100,000			1.0	30

f = frequency in MHz

* = Plane-wave equivalent power density

Note 1 to Table 4: Occupational/controlled limits apply in situations in which persons are exposed as a consequence of their employment provided those persons are fully aware of the potential for exposure and can exercise control over their exposure. Limits for occupational/controlled exposure also apply in situations when an individual is transient through a location where occupational/controlled limits apply provided he or she is made aware of the potential for exposure.

Note 2 to Table 4: General population/uncontrolled exposures apply in situations in which the general public may be exposed, or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22576 Optical communications systems (laser). (1) Laser radiation permissible exposure limits.

(2) All lasers and laser systems (~~shall~~) must be classified in accordance with the Federal Laser Product Perfor-

mance Standards (21 C.F.R. 1040.10) or, in accordance with ANSI Z136.2-2012 and ANSI Z136.1-2014.

(a) Class I laser systems that are considered to be incapable of producing damaging radiation levels during operation and are thereby exempt from control measures or other forms of surveillance.

(b) Class 1M laser systems that are considered to be incapable of producing hazardous exposure conditions during normal operations unless the beam is viewed with an optical instrument such as eye-loupe (diverging beam) or telescope (collimated beam) and are, thereby exempt from other forms of surveillance.

(c) Class II laser systems emit in the visible portion of the spectrum (0.4 µm to 0.7 µm) and eye protection is normally afforded by aversion responses, including the blink reflex. There is some possibility of injury if stared at.

(d) Class IIM laser systems emit in the visible portion of the spectrum (0.4 µm to 0.7 µm) and eye protection is normally afforded by aversion responses (blink reflex) for

unaided viewing, but are potentially hazardous if viewed with certain optical aids.

(e) Class IIIR laser systems have reduced product safety requirements and represent a transitional zone between safe and hazardous laser products.

(f) Class IIIB laser systems may be hazardous under direct and specular reflection viewing conditions, but the diffuse reflection is usually not a hazard. Class IIIB laser systems are normally not a fire hazard.

(g) Class IV (high power) laser systems are hazardous to the eye and skin from the direct beam, and sometimes from a diffuse reflection, and can also be a fire hazard. Class IV systems require the use of controls that prevent exposure of the eye and skin to specular or diffuse reflections of the beam.

(3) You must have a laser safety officer for installation and maintenance of all Class IIIB or Class IV laser systems.

(4) Warning signs and classification labels (~~(shall)~~ must be prepared in accordance with 21 C.F.R. 1040.10 when classifying lasers and laser systems, and ANSI Z136.1-2014 when using classified lasers and laser systems. All signs and labels (~~(shall)~~ must be conspicuously displayed.

(a) The signal word "CAUTION" (~~(shall)~~ must be used with all signs and labels associated with Class II and Class IIIR lasers and laser systems.

(b) The signal word "DANGER" (~~(shall)~~ must be used with all signs and labels associated with Class IIIB and Class IV lasers and laser systems.

(5) Personal protective equipment (~~(shall)~~ must be provided at no cost to the employee and (~~(shall)~~ must be worn whenever operational conditions or maintenance of lasers may result in a potentially hazardous exposure.

(a) Protective eyewear (~~(shall)~~ must be specifically designed for protection against radiation of the wavelength and radiant energy of the laser or laser system. Ocular exposure (~~(shall)~~ must not exceed the limits in ANSI Z136.1-2014 and ANSI Z136.2-2012.

(b) For Class IV lasers and laser systems protective eyewear (~~(shall)~~ must be worn for all operational conditions or maintenance which may result in exposures to laser radiation.

(6) You must establish control of hazardous laser radiation energy prior to work on Class IIIB or Class IV laser equipment. Controls may include, but are not limited to: Protective housings, interlocks, optical system attenuators, enclosed beam paths, beam stops, and emission delays with audible warnings.

Note: See WAC 296-32-22578 Control of hazardous energy for additional requirements.

(7) All employees who may be exposed to laser radiation (~~(shall)~~ must receive laser safety training. The training (~~(shall)~~ must ensure that the employees are knowledgeable of the potential hazards and control measures for the laser equipment in use.

(8) Fiber splicing.

(a) Employees must wear safety glasses with side shields or goggles while splicing fiber.

(b) Food and beverages are prohibited in the work area of fiber splicing operations.

(c) Employees must place all cut fiber pieces in a safe place.

(d) Smoking and open flames are prohibited in the work area of fiber splicing operations when using flammable chemicals.

(e) The work area must be well ventilated when using cleaning chemicals and adhesives during fiber splicing/repair operations or where the potential of other hazardous atmospheres exists. Use air monitoring equipment to ensure the work area is adequately ventilated.

(f) Looking directly into the end of fiber cables is prohibited (especially with a microscope) until you are positive that there is no light source at the other end.

(g) You must have safety data sheets (SDSs) readily available during all fiber splicing operations (see chapter 296-901 WAC).

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-22578 Control of hazardous energy.

This section establishes protection for employees who work directly in the hazardous vicinity of telecommunication facilities, sites, or towers having the following energy:

- (*) (a) Radio frequency radiation (RFR);
- (*) (b) Laser, see WAC 296-62-09005(4);
- (*) (c) Microwave;
- (*) (d) AM or FM;
- (*) (e) High intensity electromagnetic fields.

Note: Employees exposed to all other types of hazardous energy are required to follow chapter 296-803 WAC.

(1) Employees working in the telecommunication industry that may be exposed to RFR as well as other hazardous energy, the employer must ensure their safety by following this chapter for RFR as well as chapter 296-803 WAC for other hazardous energy.

(2) The employer must effectively control all forms of hazardous energy under this section by:

- (a) Elimination;
- (b) Isolation;
- (c) Reduction to permissible exposure limits, otherwise known as alternative effective means (see WAC 296-32-22574 for maximum permissible exposure limits (MPE limits)).

(d) If a source of energy is controlled by alternative effective means, it must be tagged out.

(e) If a source of energy is eliminated or isolated but cannot be locked out, it must be tagged out.

(3) The host employer or the FCC license holder in control of the energy source must establish a control of hazardous energy program that is effective for 30-300 mhz and UHF broadcast bands; see WAC 296-32-22511 for additional requirements relating to host/contractor responsibilities.

(4) The employer must ensure that site specific energy source data and contact information is available and current at each telecommunication site/facility.

(5) The employer must establish and implement a hazardous energy control program to prevent the accidental or purposeful increase or release of energy if employees are to work in the hazardous vicinity of any telecommunication sites/facilities where employees could be exposed to any of the following energies:

- (a) RFR (30-300 mhz) and UHF broadcast bands;
- (b) Laser;
- (c) Microwave;
- (d) AM or FM;
- (e) High intensity electromagnetic fields.

Note: Additional information is located in WAC 296-62-09005.

(6) The employer must ensure that undetermined or unknown levels of energy (~~shall~~) must be considered hazardous until they are clearly verified.

(7) The employer must ensure the hazardous energy control program consists of all the following elements:

(a) Host/contractor employer responsibilities as described in WAC 296-32-22511 of this chapter;

(b) Energy control procedures as described in subsections (11) through (13) of this section;

(c) Approved test procedures determined by the Federal Communications Commission (FCC) OET65 used to ensure that the area is safe for human presence;

(d) Training as described in subsections (14) through (17) of this section;

(e) Annual reviews as described in subsection (19) of this section;

(f) Tower and worksite evaluations as described in subsection (20) of this section;

(g) Procedures for removing an authorized person(s) lockout or tagout device;

(h) Procedures for alternative effective means and application/removal of tagout devices.

(8) The employer must make sure energy control procedures clearly and specifically outline:

(a) The scope, purpose, authorization, rules, and techniques to shut down or reduce hazardous energy to within the MPE limits before working within a hazardous vicinity; and

(b) How you will ensure employees follow the procedures.

(9) The employer must keep written energy control procedures and records of energy levels, for the elimination, isolation or effectively reducing hazardous energy to within MPE limits for the duration of each job being performed for twelve months.

(10) Employers able to increase amplification of energy must make themselves familiar of this chapter and comply with protections afforded to personnel while work is being completed under the scope of this chapter. Employers able to and responsible for increasing amplification must follow the requirements located in WAC 296-32-22511, and those employers with employees being exposed to hazardous energy.

(11) The employer of the affected and authorized employees must notify the employer of the controlling energy source and employers able to and responsible for increasing amplification when they will be on-site and the need for the controlling energy source to be reduced to a safe level or turned off.

(12) The employer of the controlling energy source must notify the employer of the affected and authorized employees that the controlling energy source has been reduced to within the MPE limits or turned off completely before work begins.

(13) The employer must ensure affected and authorized employees must test to ensure the energy source has been

reduced to within the MPE limits or isolated or eliminated by testing and verification through approved methods and equipment.

(14) The employer must ensure that written energy control procedures are in a language comprehensible by each employee working on or around the hazardous vicinity of a telecommunication site/facility.

(15) The employer must make sure energy control procedures specifically identify at least the following: (This includes remote control sites/facilities and remote worksites.)

(a) What personnel are considered affected or authorized, and how to contact;

(b) What location and equipment the procedure is verified for;

(c) When the procedure must be used;

(d) How the procedure is verified to be up-to-date and accurate;

(e) What the specific procedural steps are for:

(i) Notifying employers able to increase amplification;

(ii) Notifying all affected personnel;

(iii) Shutting down or reduction to within the MPE limits;

(iv) Eliminating or isolating the energy source;

(v) Securing the energy source;

(vi) Placing, removing, and transferring lockout/tagout devices and who is responsible for them;

(vii) How to test the machine or equipment to verify the effectiveness of lockout devices, reduction to MPE limits, and other energy control measures.

(16) The employer must ensure that when reducing hazardous energy to within the MPE limits (alternative effective means) the employees in hazardous areas must be trained to all requirements in this section.

(17) Training.

(a) You must effectively train employees and establish proficiency on this chapter and your site specific hazards to ensure they:

(i) Understand the purpose and function of the energy control program; and

(ii) Have the knowledge and skills necessary to carry out their responsibilities safely.

Note: Additional and supplemental training for other forms of hazardous energy are covered under chapter 296-803 WAC.

(b) You must establish proficiency for each employee in a language comprehensible in all of the following:

(i) Identification of the type(s) and magnitude of energy available on a telecommunication site/facility.

(ii) Recognizing hazardous energy sources that are potential and present.

(iii) Methods to eliminate, isolate or reduce to within the MPE limits:

(A) Which type of control (elimination, isolation or reducing to within the MPE limits) affords the best protection to the employee; and

(B) What steps must be supplemented with additional safeguards when using alternative effective means under (c) of this subsection.

(iv) The purpose and use of the energy control procedures listed in this chapter;

(v) Lockout, tagout and alternate effective means systems, devices, procedures and processes to be used;

(vi) Control of hazardous energy procedures to be used;

(vii) Prohibition against attempting to restart, reenergize, amplify or touch a machine or equipment that has been locked out or controlled through alternate effective means;

(viii) That lockout is the primary method of energy control, and that other means do not provide equal protection;

(ix) Means and methods of communication with the employers responsible for and able to increase amplification.

(c) Required supplementary training for alternative effective means. You must establish additional proficiency if you use alternate effective means as energy control. This additional preparation must include the following:

(i) When the employer is permitted to reduce the energy to within the MPE limits only if it is infeasible to lockout the energy source;

(ii) The process for contacting all employers who have potential to increase amplification on any equipment, component, transmitter or receiver on the telecommunication site/facility which creates a hazardous vicinity;

(iii) The process for documentation of the methods required for reducing to within the MPE limits;

(iv) That alternate effective means are not as effective as lockout;

(v) That alternate effective means rely upon someone else for your protection;

(vi) That alternate effective means give a false sense of security;

(vii) Authorization for use of alternate effective means must:

(A) Be in a language comprehensible by all affected and authorized employees;

(B) Be documented by authorized employees;

(C) Be documented by employers responsible for and able to increase amplification.

(viii) Selection and use of personnel RFR metering/monitoring devices;

(ix) Emergency procedures and contact requirements in the event of energy control failure;

(x) Personal protective equipment and RFR suits/etc. used for protection:

(A) Donning and doffing procedures;

(B) Specifications/inspection/life expectancy;

(C) Cleaning;

(D) Wear and tear.

(d) You must document that employee training has been completed and kept up to date according to WAC 296-32-22525. It must be supplemented with the additional requirements, including all documents/videos/supporting information used in the training.

Note: Training records may be electronic.

(18) Retraining.

(a) Retraining (~~shall~~) must be provided for all authorized and affected employees whenever there is a change in their job assignments, a change in machines, equipment, or processes that present a new hazard or whenever there is a change in the energy control procedures.

(b) Retraining (~~shall~~) must also be conducted whenever a periodic inspection reveals, or whenever the employer has

reason to believe, that there are deviations from or inadequacies in an employee's knowledge or use of the energy control procedures.

(c) The retraining (~~shall~~) must reestablish employee proficiency and (~~shall~~) must introduce new or revised control methods and procedures, as necessary.

(d) The employer (~~shall~~) must certify that employee training has been accomplished and is being kept up to date. The certification (~~shall~~) must contain each employee's name and dates of training.

(19) Annual inspection/review.

(a) The controlling employer of the energy source must conduct an inspection/review of the equipment shut-down or alternative effective means' procedures at least annually to:

(i) Make sure employees know and have been applying the energy control procedures appropriate for the work and hazards;

(ii) Correct any deviations or inadequacies identified as well as identify unique hazards;

(iii) Inform all contractors, leasees, subcontractors of retraining that needs to occur due to changes, modifications or additions.

(b) The controlling employer of the energy source must perform an annual inspection/review:

(i) The annual inspection/review (~~shall~~) must be performed by an authorized employee who is not using the energy control procedures being inspected;

(ii) The employer of the exposed and affected employees conducting work on the communication site/facility must ensure that the annual inspection/review has been performed by the controlling employer of the energy source.

(c) The employer must ensure that the annual inspection/review is documented and that the documentation includes all of the following:

(i) Equipment energy control procedures for the devices and components which possess hazardous energy potential that are to be eliminated, isolated, or reduced to within MPE limits;

(ii) Date of the inspection/review;

(iii) Employees included that have performed the procedures for the previous year;

(iv) Person doing the inspection/review.

(d) The annual inspection/review and any deviations must be kept on-site for one year. All forms of documentation must be kept for life of the equipment or twenty years, whichever comes first.

(20) Site/facility evaluations.

(a) The employer of the controlling energy source must conduct, document and retain telecommunication site/facility location evaluations.

(b) The employer of the controlling energy source must ensure that telecommunication sites/facilities location evaluations required under WAC 296-32-24005 (5), (6), (7) are supplemented with:

(i) A topographic map of the exact field location and any site/facility within a predicted worst-case power density distance as outlined in the FCC Office of Engineering of Technology, Bulletin 65, Edition 97-01;

(ii) A comprehensive cross sectional diagram of the structure, and where antennas, transmitting devices and other apparatuses are located;

(iii) A comprehensive cross sectional diagram of the structure's hazardous energy and hazardous vicinity associated with each of the sources;

(iv) The host employer/contractor responsible (carrier, leasee or renter) party's contact information for each of the antennas, transmitters, and/or apparatus;

(v) Contact information for any employer who is able to increase amplification on the telecommunication site/facility being worked on, or any site/facility within the hazardous vicinity or able to transmit hazardous energy to employees at the job site's location;

(vi) Contact information of the site/facility owner;

(vii) A listing of work completed on the site/facility in the last twelve months.

(c) Information in the telecommunication site/facility location evaluations must be easily comprehensible by any employee conducting work on, or within the hazardous vicinity of the site.

(21) Energy control and devices.

(a) The employer must provide appropriate means to control energy through elimination, isolation, or alternative effective means from energy sources.

(b) The employer must make sure lockout and tagout devices meet all of the following:

(i) Create no additional hazards;

(ii) Have a distinctive design or appearance;

(iii) Are the only devices used for controlling energy;

(iv) Are not used for any other purpose;

(v) Are durable enough to withstand the environment they are used in for the maximum time they are expected to be used;

(vi) Are standardized within the site by color, shape or size;

(vii) Identify the specific person who is protected by the lockout or tagout device.

(c) The employer must make sure lockout devices are strong enough so that removing them by other than the normal unlocking method requires:

(i) Excessive force; or

(ii) Unusual techniques such as the use of bolt cutters or other metal cutting tools.

(d) The employer must make sure tagout devices meet these additional requirements:

(i) Make sure all tags:

(A) Meet the format and design criteria of danger/warning tags located in ANSI Z535.5, 2011;

(B) Use the same print and format within a site/facility;

(C) Are constructed and printed so they will not deteriorate and the message on the tag remains legible when:

(I) Exposed to weather;

(II) Used in wet or damp locations;

(III) Used in a corrosive environment such as areas where acid or alkali chemicals are handled or stored.

(D) Have a warning about not energizing or increasing the power to the machine, equipment or component.

(ii) Make sure tagout devices are strong enough to prevent unintentional or accidental removal.

(ii) Make sure the means used to attach the tag to the energy-isolating device meets all of the following:

(A) Is not reusable;

(B) Is self-locking;

(C) Can be attached by hand;

(D) Cannot be released with a force of less than fifty pounds;

(E) Is similar in design and basic characteristics to a one-piece, all-environment-tolerant, nylon cable tie.

(e) The employer must provide appropriate testing/monitoring equipment to assess the potential types and magnitude of energy available at the telecommunication site/facility.

(22) Use of energy control.

(a) The employer must use energy control procedures in this section to protect employees from potentially hazardous energy.

(b) The employer must use a lockout system if it is feasible and the energy source can be locked out.

(i) If a lockout system is used, it must be applied at each source of energy and only by the authorized employee who may be exposed to the hazardous energy;

(ii) If multiple employers/authorized personnel are to work on a telecommunication site/facility, group energy (~~shall~~) must afford the same protection as individual lockout.

(c) The employer must use a tagout system only if an energy source cannot be locked out. If it is infeasible to lock out an energy source, you may be permitted to reduce the energy source exposure to within the MPE limits. If it is feasible to lock out a source of energy, you must do so. If the source cannot be locked, you must use tagout.

(d) You must make sure lockout devices hold the energy-isolating device in a "safe" or "off" position.

(e) You must meet these additional requirements when applying a tagout device:

(i) Make sure a tagout device is put on an energy-isolating device so it clearly shows that moving the energy-isolating device from the "safe" or "off" position is prohibited;

(ii) Make sure a tagout device, when used with an energy-isolating device that can be locked out, is fastened to the device at the same point a lock would have been attached;

(iii) Make sure a tagout device that cannot be attached directly to an energy-isolating device is located:

(A) As close as safely possible to the energy-isolating device; and

(B) In a position that is immediately obvious to anyone attempting to operate the energy-isolating device.

(23) Reducing to within the maximum permissible exposure limits (MPE limits) - Authorization steps.

(a) The employer must meet these additional requirements when applying a tagout device for alternative effective means protection to receive authorization to work:

(i) The authorized employee must coordinate with a qualified transmitter engineer/operator to ensure energy control procedures are being followed;

(ii) The authorized employee must have on-their-person testing devices capable of monitoring all potential energy output and alarming if an increase occurs in any component, device or equipment;

(iii) The qualified transmitter engineer/operator must contact all employers responsible for amplifying power within the hazardous vicinity of the affected and authorized employees on the site and ensure the following:

(A) The individual applying the tag gives their name, title and manager's number to the qualified transmitter engineer/operator;

(B) The individual applying the tag notifies the qualified transmitter engineer/operator that they know and understand their responsibilities and requirements of this section;

(C) The individual applying the tag reduces the energy to the specified amount, as determined by the qualified transmitter engineer/operator, and allowed by the PEL;

(D) This energy reduction is verified by the qualified transmitter engineer/operator on-site;

(E) A tagout device is secured on the dial, knob, terminal, switch or device used to increase or decrease power for each transmitter, component and equipment capable of introducing hazardous energy;

(F) The qualified transmitter engineer/operator documents the name, date, and time of contact as well as what energy was controlled at the time;

(G) The qualified transmitter engineer/operator contacts the authorized persons on-site, and ensures that they verify the power is reduced to acceptable levels according to the MPE limits.

(iv) When the authorized employee has completed their job, and outside of the hazardous vicinity, they will inform the qualified transmitter engineer/operator on-site;

(v) The qualified transmitter engineer/operator on-site will verify no employees are within the hazardous vicinity;

(vi) The qualified transmitter engineer/operator will contact all employers capable of amplifying power and have the tagout devices removed. The qualified transmitter engineer/operator will document the person they spoke to, the time, and the date the tagout was "closed";

(vii) The qualified transmitter engineer/operator will return the equipment back to normal power.

(b) The employer must protect employees from the hazards of potential, stored, residual or active hazardous energy by:

(i) Making sure all potentially hazardous stored and residual energy is relieved, discharged, disconnected, restrained, or otherwise rendered safe after the lockout or tagout devices have been put on the energy-isolating devices;

(ii) Continuous verification of the control of machines, equipment, transmitters, receivers or that could reaccumulate stored energy to a hazardous level until:

(A) Service or maintenance is completed; or

(B) The possibility of accumulating hazardous energy does not exist.

(c) The employer must make sure each authorized employee verifies that the machine, equipment, transmitter, receiver or antenna that has been locked, tagged or reduced to within the MPE limits is safe to work around before starting work.

(d) The employer must ensure that before lockout/tagout devices are removed and the energy is restored to machine or equipment, procedures ~~((shall))~~ must be followed and actions taken by the authorized employees to ensure the following:

(i) The work area ~~((shall))~~ must be inspected to ensure that nonessential items have been removed and that machine or equipment components are operationally intact;

(ii) The work area ~~((shall))~~ must be checked and verified to ensure that all employees have been notified, safely positioned or removed;

(iii) The employer of the affected employees must notify the employer of the controlling energy source that it is safe to restore the energy source;

(iv) After (a) through (c) of this subsection have been completed, locks and/or tags can be removed and energy restored to regular power:

(A) If the type of control was elimination or isolation and was locked or tagged out, the lock or tag must be removed by the authorized person who applied it.

(B) If the type of control was reduction to MPE limits or alternative effective means, the tag can be removed by the individual who applied it.

(v) In the case of elimination or isolation the employer may have the lockout or tagout device removed by someone other than the authorized employee who applied it if all of the following conditions are met:

(A) The energy control program has a documented, specific procedure and training for this situation.

(B) You can show that the specific procedures used are as safe as having the device removed by the authorized employee who applied it.

(C) The specific procedures include at least the following:

(I) Verifying the authorized employee who applied the device is not at the site/facility;

(II) Making all reasonable efforts to contact and inform the authorized employee that the lockout or tagout device is being removed;

(III) Making sure the authorized employee is informed, before resuming work at the site/facility, that the lockout or tagout device has been removed.

(e) The employer must meet these requirements if it is necessary to temporarily energize a machine, equipment or component for testing or positioning:

(i) Ensure all authorized or affected personnel are notified and out of hazardous vicinities where exposure to hazardous energy could injure them;

(ii) Follow the energy control program procedures to:

(A) Have all affected and authorized personnel and employees move outside the hazardous vicinity;

(B) Have the authorized individual remove the lockout or tagout device or alternative effective means device;

(C) Contact the employer able to increase or amplify power and have them remove the lockout or tagout device;

(D) Energize or increase power to the machine, equipment or component;

(E) Conduct testing or positioning;

(F) Isolate, eliminate or reduce the power to within the MPE limits;

(G) Reapply the lockout or tagout device when testing or positioning is completed;

(H) Ensure proper protection is afforded through alternative effective means;

(I) Use metering, monitoring or testing devices to determine levels of energy are safe to reenter the area.

(f) The employer must make sure each authorized employee:

(i) Puts a personal lockout or tagout device on the isolation device, group lockout device, lockbox, or comparable mechanism before beginning work;

(ii) Does not remove it until they have finished work on the machine or equipment; and

(iii) Using an energy control alternative effective means, must have a means to contact the employer who has the ability to increase amplification, and how a tagout device will be applied and removed.

(24) Group lockout/tagout and shift changes.

(a)(i) The employer must protect employees during shift or personnel changes by doing the following:

(ii) Use specific procedures for shift or personnel changes to:

(A) Make sure there is continuous lockout or tagout protection during the change; and

(B) Provide for the orderly transfer of lockout or tagout device protection between employees.

(b) The employer must make sure your group energy control procedures provide each member of a crew, craft, department, or other group with the same level of protection as that provided by an individual lockout or tagout device.

(c) The employer must assign a primary authorized employee during group energy control who:

(i) Has overall responsibility for the service or maintenance;

(ii) Attaches their lockout or tagout device to the energy-isolating device when the equipment is deenergized and before any work begins;

(iii) Ensures all employees have been notified and removed from the hazardous vicinity; and

(iv) Is the last person to remove their lockout or tagout device when the job is completed.

(d) The employer must do all of the following if more than one group works on a machine, equipment, transmitter or receiver that has to be locked, tagged or reduced to within the MPE limits:

(i) Assign an authorized person as the group coordinator with overall responsibility to:

(A) Coordinate the different work groups; and

(B) Maintain continuous lockout, tagout or reduction to within the MPE limits protection.

(ii) Assign a primary authorized employee in each group who has:

(A) Responsibility for the group of employees who are protected by a group lockout or tagout device; and

(B) A way to determine which employees of the group are exposed to the machine or equipment that is locked or tagged out.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23505 Pole climbing equipment. (1) Approved lineman's belts and straps ((~~shall~~)) must be provided. The employer ((~~shall~~)) must ensure their use when

work is performed at positions more than four feet above ground, on poles. The belt and strap (work-positioning systems) must be rigged so that an employee can free fall no more than two feet (0.6 meters).

(2) The employer ((~~shall~~)) must ensure that all safety belts and straps are inspected by a competent person prior to each day's use to determine that they are in safe working condition.

(3) Telecommunication lineman's body belts, safety straps and lanyards have to meet the following general requirements:

(a) ((~~Shall~~)) Must be drop forged or pressed steel.

(b) ((~~Shall~~)) Must have a corrosion resistant finish tested to meet the requirements of the American Society for Testing and Materials B117-64 (50-hour test).

(c) Hardware surfaces ((~~shall~~)) must be smooth and free of sharp edges.

(d) Lineman's body belts ((~~shall~~)) must be at least four inches in width.

(e) Buckles ((~~shall~~)) must be capable of withstanding an 8.9-((kiloneutron)) kN (2,000-pound force) tension test with a maximum permanent deformation no greater than 0.4 millimeters (0.0156 inches).

(f) "D" rings ((~~shall~~)) must be capable of withstanding a 22-((kiloneutron)) kN (5,000-pound force) tensile test without cracking or breaking.

(g) Snaphooks ((~~shall~~)) must be capable of withstanding a 22-((kiloneutron)) kN (5,000-pound force) tension test without failure. The keeper of the locking snaphooks must have a spring tension that will not allow the keeper to begin to open with a weight of two and one-half pounds or less, but the keeper of snaphooks must begin to open with a weight of four pounds, when the weight is supported on the keeper against the end of the nose. The snaphook must be a locking snaphook.

Note: Distortion of the snaphook sufficient to release the keeper is considered to be tensile failure of a snaphook.

(h) Top grain leather or leather substitute may be used in the manufacture of body belts and positioning straps; however, leather and leather substitutes may not be used alone as a load-bearing component of the assembly.

(i) Plied fabric used in positioning straps and in load-bearing parts of body belts ((~~shall~~)) must be constructed in such a way that no raw edges are exposed and the plies do not separate.

(j) Positioning straps ((~~shall~~)) must be capable of withstanding the following tests:

(i) A dielectric test of 819.7 volts, AC, per centimeter (25,000 volts per foot) for three minutes without visible deterioration;

(ii) A leakage test of 98.4 volts, AC, per centimeter (3,000 volts per foot) with a leakage current of no more than 1 mA;

Note: Positioning straps that pass direct-current tests at equivalent voltages are considered as meeting this requirement.

(iii) Tension tests of 20 ((kiloneutons)) kN (4,500 pounds-force) for sections free of buckle holes and of 15 ((kiloneutons)) kN (3,500 pounds-force) for sections with buckle holes;

- (iv) A buckle-tear test with a load of 4.4 (~~kilonewtons~~) kN (1,000 pounds-force); and
- (v) A flammability test in accordance with Table 5.

Table 5

Flammability Test Method	Criteria For Passing the Test
Vertically suspend a 500 mm (19.7 inch) length of strapping supporting a 100 kg (220.5 lb.) weight. Use a butane or propane burner with a 76 mm (3 inch) frame. Direct the flame to an edge of the strapping at a distance of 25 mm (1 inch). Remove the flame after five seconds. Wait for any flames on the positioning strap to stop burning.	Any flames on the positioning strap (shall) <u>must</u> self-extinguish. The positioning strap (shall) <u>must</u> continue to support the 100 kg (220.5 lb.) mass.

- (4) Before an employee throws their weight on a belt, the employee (~~shall~~) must determine that the snap or fasteners are properly engaged.
- (5) When working on single-use telecom poles, safety straps (~~shall~~) must not be placed above the cross-arm or top attachment except where it is not possible for the strap to slide or be slipped over the top of the pole.
- (6) Neither end of the strap (~~shall~~) must be allowed to hang loose or dangle while the employee is ascending or descending poles or other structures.
- (7) Lineman's belts and safety straps (~~shall~~) must not be stored with sharp-edged tools or near sharp objects. When a lineman's belt, safety strap and climbers are kept in the same container, they (~~shall~~) must be stored in such a manner as to avoid cutting or puncturing the material of the lineman's belt or safety strap with the gaffs or climbers.
- (8) Unless the snap hook is designed for the following connections, snap hooks (~~shall~~) must not be engaged as follows:
 - (a) Connected to loops made in webbing-type lanyards.
 - (b) Connected to each other.
 - (c) Attached to a D-ring to which another snap hook or other connector is attached.
- (9) Pole climbers.
 - (a) Climbing gaffs (~~shall~~) must be kept properly sharpened and (~~shall~~) must be at least one and one-quarter inches in length as measured on the underside of the gaff.
 - (b) The gaffs of pole climbers (~~shall~~) must be covered with safety caps when not being used for their intended use.
 - (c) The employer (~~shall~~) must ensure that pole climbers are inspected by a competent person/qualified climber for the following conditions: Fractured or cracked gaffs or leg irons, loose or dull gaffs, broken straps or buckles. If any of these conditions exist, the defect (~~shall~~) must be corrected or replaced before the climbers are used.

- (d) Pole climbers (~~shall~~) must be inspected as required in this subsection before each day's use and a gaff cut-out test performed at least weekly when in use.
- (e) Employees (~~shall~~) must not wear climbers while doing work where they are not required. Employees (~~shall~~) must not continue to wear their climbers while working on the ground, except for momentary periods of time on the ground.
 - (f) Pole climbers (~~shall~~) must not be worn when:
 - (i) Working in trees (specifically designed tree climbers (~~shall~~) must be used for tree climbing);
 - (ii) Working on ladders;
 - (iii) Working in an aerial lift;
 - (iv) Driving a vehicle;
 - (v) Walking on roadways, sidewalks, rocky, hard, frozen, brushy or hilly terrain.
- (10) When a ladder is supported by an aerial strand, and ladder hooks or other supports are not being used, the ladder (~~shall~~) must be extended at least two feet above the strand and (~~shall~~) must be secured to it (e.g., lashed or held by a safety strap around the strand and ladder side rail). When a ladder is supported by a pole, it (~~shall~~) must be securely lashed to the pole unless the ladder is specifically designed to prevent movement when used in this application. Use a safety belt with a lanyard that is secured to the pole when doing any work.
 - (11) Aerial manlift equipment.
 - (a) These devices (~~shall~~) must not be operated with any conductive part of the equipment closer to exposed energized power lines than the clearances set forth in Table 6 of WAC 296-32-25518.
 - (b) Only qualified drivers (~~shall~~) must be permitted to operate aerial manlift equipment and (~~shall~~) must possess an appropriate and current motor vehicle operator's license, specific to the vehicle and load; such as a commercial driver's license (CDL) Class A, B, C, etc.
 - (c) When performing work from aerial manlift equipment, the employee (~~shall~~) must wear a full body harness and a lanyard attached to the manufacturer's approved attachment point.
 - (d) When it is necessary for the employee to remain in the bucket at an elevated position while traveling from pole to pole:
 - (i) There (~~shall~~) must be direct communication between the employee and the vehicle operator; and
 - (ii) The operator's manual must be followed for rate of speed.
 - (e) When any aerial manlift equipment is parked at the job site, the brakes (~~shall~~) must be set. Wheel chocks (~~shall~~) must be used to prevent uncontrolled movement. If equipped with outriggers, the outriggers (~~shall~~) must be implanted on firm footing.
 - (f) Manufacturer's recommended maximum load limit (~~shall~~) must be posted near each set of controls, kept in legible condition and the maximum load limit (~~shall~~) must not be exceeded.
 - (g) Flashing warning lights (~~shall~~) must be installed, maintained, and used on all aerial manlift equipment used on public thoroughfares.

(12) Inspection criteria. The employer ((~~shall~~)) must ensure that aerial lifts and associated equipment are inspected by a competent person at intervals set by the manufacturer but in no case less than once per year. Records ((~~shall~~)) must be maintained including the dates of inspections, and necessary repairs made. Additional requirements are located in chapter 296-869 WAC, Elevating work platforms.

(13) Digger derricks and similar equipment.

(a) This equipment ((~~shall~~)) must not be operated with any conductive part of the equipment closer to exposed energized power lines than the clearances set forth in Table 6 in WAC 296-32-23518.

(b) When digger derricks are used to handle poles near energized power conductors, these operations ((~~shall~~)) must comply with the requirements contained in WAC 296-32-23518(3) of this chapter.

(c) Moving parts of equipment and machinery carried on or mounted on telecommunications line trucks ((~~shall~~)) must be guarded. This may be done with barricades as specified in WAC 296-32-22530 of this chapter.

(d) Digger derricks and their operation ((~~shall~~)) must comply with the following requirements:

(i) Manufacturer's specifications, load ratings and instructions for digger derrick operation ((~~shall~~)) must be strictly observed.

(ii) Rated load capacities and instructions related to digger derrick operation ((~~shall~~)) must be conspicuously posted on a permanent weather-resistant plate or decal in a location on the digger derrick that is plainly visible to the operator.

(iii) Prior to operation the parking brake must be set and the stabilizers extended if the vehicle is so equipped. When the vehicle is situated on a grade, at least two wheels must be chocked on the downgrade side.

(iv) Only trained and qualified persons ((~~shall~~)) must be permitted to operate the digger derrick.

(v) Hand signals to operators ((~~shall~~)) must be those prescribed by ANSI A10.31-2013, Safety Requirements, Definitions and Specifications for Digger Derricks.

(vi) The employer ((~~shall~~)) must ensure that the digger derrick and its associated equipment are inspected by a competent person at intervals set by the manufacturer but in no case less than once per year. Records ((~~shall~~)) must be maintained including the dates of inspections, and necessary repairs made.

(vii) Modifications or additions to the digger derrick and its associated equipment that alter its capacity or affect its safe operation ((~~shall~~)) must be made only with written certification from the manufacturer, or other equivalent entity, such as a nationally recognized testing laboratory, that the modification results in the equipment being safe for its intended use. Such changes ((~~shall~~)) must require the changing and posting of revised capacity and instruction decals or plates. These new ratings or limitations ((~~shall~~)) must be as provided by the manufacturer or other equivalent entity.

(viii) Synthetic rope ((~~shall~~)) must be used in accordance with the manufacturer's specifications and guidelines for the load(s) intended and the equipment being used.

Note: Digger derricks are now being supplied with synthetic rope hoist lines and worn out wire rope hoist lines may be replaced with synthetic ropes, depending on the hoist drum's storage capacity, compatibility and manufacturer's guidance.

(ix) The use of rope that shows any signs of aging, chemical contamination or wear must not be used.

Note: If you are in doubt of the line's condition, take it out of service and have a competent person inspect it. If it is found to be unserviceable, tag the worn/damaged rope and render it unusable.

(x) When the bulk of a surface strand of the cover has been reduced by 50 percent or more for a distance along the axis of the rope of four or more rope diameters, a two-in-one, double braided rope must be taken out of service or discarded. If the core is visible through the cover in a localized area, discard the damaged area; you may have the eye respliced by a competent/qualified person.

Note: If the condition is in more than one area, take the rope out of service and have a competent person inspect it or discard the rope.

(xi) Pulled strands are a potential hazard for snagging on foreign objects. Make every effort to reincorporate a pulled strand back into the rope. If there are four or more consecutive pulled strands that cannot be reincorporated back into the rope, then the rope must be either respliced above the damaged spot or discarded.

(xii) For ropes with a circumference up to (11.43 cm) 4.5 inches, three or more adjacent cut strands are a sign of severe damage and the rope must be taken out of service, discarded or respliced. For ropes with larger circumferences, cut strands can be increased to four.

(xiii) The rope ((~~shall~~)) must not be allowed to build up on one side of the hoist drum, it can slip off and drop the load until the cable tightens up. This creates a shock load on the rope and boom and produces a loss of control of the load.

Notes: ((*) 1. A very sudden change in load up or down in excess of ten percent of the line's rated working load constitutes a hazardous shock load and would void most manufacturers' normal working load recommendations.

((*) 2. A typical shock load occurs when an object being lifted vertically by a hoist line gets jerked suddenly or is dropped. Under these conditions, a (2268 kg) 5,000 lb. load may increase to the equivalent of (13,608 kg) 30,000 lb., breaking the hoist line.

(xiv) Any rope suspected of undergoing a shock load must be taken out of service and inspected by a competent person.

(xv) Hoist lines used with derricks ((~~shall~~)) must be rated for the load and usage as specified by the load chart as required by the manufacturer's specifications.

(xvi) Wire rope ((~~shall~~)) must be taken out of service when any of the following conditions exist:

(A) The rope strength has been significantly reduced due to corrosion, pitting, or excessive heat;

(B) The thickness of the outer wires of the rope has been reduced to two-thirds or less of the original thickness;

(C) There are more than six broken wires in any one rope lay, or three in one strand;

(D) There is excessive permanent distortion caused by kinking, crushing, or severe twisting of the rope; or

(E) When the wire rope fails to meet the manufacturer's inspection criteria.

(e) Pulling equipment.

(i) Collapsible power reels (~~(shall)~~ **must**) only be used to string or take up wire, small diameter cable, poly rope, or tape for placing or removing aerial cable, taking down wire, or pulling winch line into conduits.

(ii) When used for pulling in poly rope or tape, the reel (~~(shall)~~ **must**) only be used as a pulling capstan and not as a storage device. A maximum of three wraps is allowed.

Note: Excessive wraps of poly rope or tape will cause a reel to fail.

(iii) At all times during pulling operations the employee must stay out of the bite of the line.

(iv) All other manufacturer requirements and recommendations must be followed.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23510 Materials handling and storage.

(1) Poles.

(a) When working with poles in piles or stacks, work (~~(shall)~~ **must**) be performed from the ends of the poles and precautions (~~(shall)~~ **must**) be taken for the safety of employees at the other end of the pole.

(b) During pole hauling operations, all loads (~~(shall)~~ **must**) be secured to prevent displacement. Lights, reflectors and/or flags (~~(shall)~~ **must**) be displayed on the end and sides of the load as required by the department of transportation.

(c) The requirements for installation, removal, or other handling of poles in pole lines are prescribed in WAC 296-32-23516 and 296-32-23518 which pertains to overhead lines.

(d) The operator (~~(shall)~~ **must**) not leave their position at the controls (while a load is suspended), unless the hoisting machinery is equipped with a positive locking system and for the sole purpose of assisting in positioning the load prior to landing it.

(e) Prior to unloading steel, poles, crossarms, and similar material, the load (~~(shall)~~ **must**) be thoroughly examined to ascertain that the load has not shifted, that binders or stakes have not broken, and that the load is not otherwise hazardous to employees.

(2) Cable reels. Cable reels and poles in storage (~~(shall)~~ **must**) be checked or otherwise restrained to prevent uncontrollable movement.

(3) All tools and materials (~~(shall)~~ **must**) be stored in a safe and orderly manner.

(4) Employees (~~(shall)~~ **must**) not carry loose materials, tools, or equipment on or in vehicles in a manner that would constitute a hazard.

(5) All buildings, storage yards, equipment and other property (~~(shall)~~ **must**) be kept in a clean, sanitary and orderly manner.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23512 Cable fault locating and testing.

(1) Employees involved in cable fault locating and testing (~~(shall)~~ **must**) be instructed in the precautions necessary for their own safety and the safety of other employees.

(2) Before voltage is applied to equipment not isolated, all possible precautions (~~(shall)~~ **must**) be taken to ensure that no employee can make contact with the energized conductors under test.

(3) Only trained and authorized personnel (~~(shall)~~ **must**) repair and test medium and high voltage equipment.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23514 Grounding for employee protection—Pole lines.

(1) Power conductors. Electric power conductors and equipment (~~(shall)~~ **must**) be considered energized until the utility or utility representative has verified to the telecommunications employer/employee(s) on-site that the line(s) have been deenergized and grounded as listed in subsection (4) of this section. Guidance on grounding for the protection of employees is found in WAC 296-45-345 and must be followed and verified complete before a line can be considered deenergized.

(2) Nonworking open wire. Nonworking open wire communications lines (~~(shall)~~ **must**) be bonded to one of the grounds listed in subsection (4) of this section.

(3) Vertical power conduit, power ground wires and street light fixtures.

(a) Metal power conduit on joint use poles, exposed vertical power ground wires, and street light fixtures which are below communications attachments or less than twenty inches above these attachments, (~~(shall)~~ **must**) be considered energized and (~~(shall)~~ **must**) be tested for voltage unless the employee can visually determine that they are bonded to the communications suspension strand or cable sheath.

(b) If no hazardous voltage is shown by the voltage test, a temporary bond (~~(shall)~~ **must**) be placed between such street light fixture, exposed vertical power grounding conductor, or metallic power conduit and the communications cable strand. Temporary bonds used for this purpose (~~(shall)~~ **must**) have sufficient conductivity to carry at least five hundred amperes for a period of one second without fusing.

(4) Protective grounding. Acceptable grounds for protective grounding are as follows:

(a) A vertical ground wire which has been tested, approved for use and found safe, provides for 20 kV voltage protection, and is connected to a power system multi-grounded neutral or the grounded neutral of a power secondary system where there are at least three services connected; a 20 kV voltage detector is required for the test.

(b) Communications cable sheath or shield and its supporting strand where the sheath or shield is:

(i) Bonded to an underground or buried cable which is connected to a central office ground; or

(ii) Bonded to an underground metallic piping system; or

(iii) Bonded to a power system multi-grounded neutral or grounded neutral of a power secondary system which has at least three services connected.

(c) Guys which are bonded to the grounds specified in (a) and (b) of this subsection and which have continuity uninterrupted by an insulator; and

(d) If all of the preceding grounds are not available, arrays of driven ground rods where the resultant resistance to ground will be low enough to eliminate danger to personnel or permit prompt operation of protective devices.

(5) Attaching and removing temporary bonds. When attaching grounds (bonds), the first attachment ~~((shall))~~ must be made to the protective ground. When removing bonds, the connection to the line or equipment ~~((shall))~~ must be removed first. Insulating gloves, suitable for voltage levels that may be encountered, must be worn during these operations.

(6) Temporary grounding of suspension strand.

(a) The suspension strand ~~((shall))~~ must be grounded to the existing grounds listed in subsection (4) of this section when being placed on jointly used poles.

(b) Where power crossings are encountered on nonjoint lines, the strand ~~((shall))~~ must be bonded to an existing ground listed in subsection (4) of this section as close as possible to the crossing. This bonding is not required where crossings are made on a common crossing pole unless there is an upward change in grade at the pole.

(c) Where traveling roller-type bonds are used, they ~~((shall))~~ must be restrained so as to avoid stressing the electrical connections.

(d) Bonds between the suspension strand and the existing ground ~~((shall))~~ must be at least No. 6AWG copper.

(e) Temporary bonds ~~((shall))~~ must be left in place until the strand has been tensioned, dead-ended, and permanently grounded.

(f) Covered strand (insulated) ~~((shall))~~ must be grounded at the reel during stringing operations.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23516 Overhead lines. (1) Handling suspension strand.

(a) When pulling strand off a reel trailer more than two spans there must be a reel tender.

(b) There must be reliable communications between the employee pulling strand and the reel tender.

(c) The employer ~~((shall))~~ must ensure that when handling cable suspension strand which is being installed on poles carrying exposed energized power conductors, that all employees that may be exposed, to include the reel tender, ~~((shall))~~ must wear insulating gloves, suitable for voltage levels that may be encountered, and ~~((shall))~~ must avoid body contact with the strand until after it has been tensioned, dead-ended and permanently grounded.

(d) The strand ~~((shall))~~ must be restrained against upward movement during installation:

(i) On joint-use poles, where there is an upward change in grade at the pole; and

(ii) On nonjoint-use poles, where the line crosses under energized power conductors.

(2) Test requirements for cable suspension strand.

(a) Before attaching a splicing platform to a cable suspension strand, the strand ~~((shall))~~ must be tested and determined to have strength sufficient to support the weight of the platform and the employee. Where the strand crosses above power wires or railroad tracks it may not be tested but ~~((shall))~~ must be inspected in accordance with subsection (3) of this section.

(b) The following method or an equivalent method ~~((shall))~~ must be used for testing the strength of the strand: A rope, at least three-eighths inches in diameter, ~~((shall))~~ must be thrown over the strand. On joint lines, the rope ~~((shall))~~ must be passed over the strand using tree pruner handles or a wire raising tool. If two employees are present, both ~~((shall))~~ must grip the double rope and slowly transfer their entire weight to the rope and attempt to raise themselves off the ground. If only one employee is present, one end of the rope which has been passed over the strand ~~((shall))~~ must be tied to the bumper of the truck, or other equally secure anchorage. The employee then ~~((shall))~~ must grasp the other end of the rope and attempt to raise himself off the ground.

(3) Inspection of strand. Where strand passes over electric power wires or railroad tracks, it ~~((shall))~~ must be inspected from an elevated working position at each pole supporting the span in question. The strand may not be used to support any splicing platform, scaffold or cable car, if any of the following conditions exist:

(a) Corrosion so that no galvanizing can be detected;

(b) One or more wires of the strand are broken;

(c) Worn spots; or

(d) Burn marks such as those caused by contact with electric power wires.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23518 Wood or other types of poles. (1)

Need for testing wood poles. Unless temporary guys or braces are attached, the following poles ~~((shall))~~ must be tested in accordance with subsection (2) of this section and determined to be safe before employees are permitted to climb them:

Note: When work is to be performed on a wood pole, it is important to determine the condition of the pole before it is climbed. The weight of the employee, the weight of equipment being installed, and other working stresses (such as the removal or retensioning of conductors) can lead to the failure of a defective pole or one that is not designed to handle the additional stresses. For these reasons, it is essential that an inspection and test of the condition of a wood pole be performed before it is climbed.

(a) Dead-end poles, except properly braced or guyed "Y" or "T" cable junction poles;

(b) Straight line poles which are not storm guyed and where adjacent span lengths exceed one hundred sixty-five feet;

(c) Poles at which there is a downward change in grade and which are not guyed or braced corner poles or cable junction poles;

(d) Poles which support only telephone drop wire; and
 (e) Poles which carry less than ten communications line wires. On joint use poles, one power line wire ((~~shall~~) must be considered as two communication wires.

(2) Testing of wood poles.

(a) The employer ((~~shall~~) must develop test methods that can be used in ascertaining whether a wood pole is capable of sustaining the forces that would be imposed by an employee climbing the pole.

(b) The employer ((~~shall~~) must ascertain that the pole can sustain all other forces that will be imposed by the work to be performed.

(c) The following method or an equivalent method ((~~shall~~) must be used for testing wood poles:

(i) Rap the pole sharply with a lineman's hammer, starting near the ground line and continuing upwards circumferentially around the pole to a height of approximately 6 feet. The hammer will produce a clear sound and rebound sharply when striking sound wood. Decay pockets will be indicated by a dull sound and/or a less pronounced hammer rebound. When decay pockets are indicated, the pole ((~~shall~~) must be considered unsafe.

(ii) The pole ((~~shall~~) must be prodded below or as near the ground line as possible using a pole prod or a screwdriver with a single blade at least five inches long, driving it in at a forty-five degree angle towards the center of the pole.

(iii) Apply a horizontal force to the pole and attempt to rock it back and forth in a direction perpendicular to the line. Caution must be exercised to avoid causing power lines to swing together. The force may be applied either by pushing with a pike pole or pulling with a rope. If the pole cracks during the test, it ((~~shall~~) must be considered unsafe.

(d) The pole should be inspected for cracks. Horizontal cracks perpendicular to the grain of the wood may weaken the pole. Vertical ones, although not considered to be a sign of a defective pole, can pose a hazard to the climber, and the employee must keep his or her gaffs away from them while climbing.

(e) The presence of any of these conditions is an indication that the pole may not be safe to climb or to work from. The employee performing the inspection must be qualified to make a determination as to whether or not it is safe to perform the work without taking additional precautions.

(f) Unsafe poles or structures.

(i) Poles or structures determined by a qualified employee to be unsafe by test or observation may not be climbed until made safe by guying, bracing or other means.

(ii) Poles determined to be unsafe to climb ((~~shall~~) must, until they are made safe, be marked in a conspicuous place to alert and warn all employees of the unsafe condition and the owner of the pole must be notified of its condition.

(3) Handling poles near energized power conductors.

(a) Qualified employees permitted to set, remove or handle poles which could inadvertently encroach the minimum approach distance must be trained in:

(i) The proper use of the special precautionary techniques;

(ii) Personal protective equipment;

(iii) Insulating and shielding materials;

(iv) Insulated tools for working near exposed energized parts or overhead electrical lines and equipment;

(v) Skills and techniques necessary to determine the nominal voltage of exposed live lines and parts; and

(vi) The minimum approach distances in Table 6 of this section.

(b) A designated employee other than the equipment operator ((~~shall~~) must observe the approach distance to exposed lines and equipment and give timely warnings before the minimum approach distance required by Table 6 of this section is reached, unless the employer can demonstrate that the operator can accurately determine that the minimum approach distance is being maintained.

(c) Where a hazard of a power contact exists, due to use of long handled tools, proper rubber equipment ((~~shall~~) must be used.

(d) Joint use poles may not be set, moved, or removed where the nominal voltage of open electrical power conductors exceeds 34.5 kV phase to phase or 20 kV phase to ground.

(e) Poles that are to be placed, moved or removed during heavy rains, sleet or wet snow in joint lines carrying more than 8.7 kV phase to phase voltage or 5 kV phase to ground ((~~shall~~) must be guarded or otherwise prevented from any contact with overhead energized power conductors.

(f)(i) In joint lines where the power voltage is greater than 600 volts but less than 34.5 kV phase to phase or 20 kV phase to ground, wet poles being placed, moved or removed ((~~shall~~) must be insulated with either a rubber insulating blanket, a fiberglass box guide, or equivalent protective equipment.

(ii) In joint lines where the power voltage is greater than 8.7 kV phase to phase or 5 kV phase to ground but less than 34.5 kV phase to phase or 20 kV phase to ground, dry poles being placed, moved, or removed ((~~shall~~) must be insulated with either a rubber insulating blanket, a fiberglass box guide, or equivalent protective equipment.

(iii) Where wet or dry poles are being removed, insulation of the pole is not required if the pole is cut off two feet or more below the lowest power wire and also cut off near the ground line.

(g) Insulating gloves ((~~shall~~) must be worn when handling the pole with either hands or tools, when there exists a possibility that the pole may contact a power conductor. Where the voltage to ground of the power conductor exceeds 15 kV to ground, Class II gloves (as defined in ASTM D 120-09a) ((~~shall~~) must be used. For voltages not exceeding 15 kV to ground, insulating gloves ((~~shall~~) must have a breakdown voltage of at least 17 kV.

(h) The guard or insulating material used to protect the pole ((~~shall~~) must meet the appropriate three-minute proof test voltage requirements contained in:

(*) (i) ASTM D 178-01, 2010, Standard Specification for Rubber Insulating Matting;

(*) (ii) ASTM D 1048-12, Standard Specification for Rubber Insulating Blankets;

(*) (iii) ASTM D 1049-98, 2010, Standard Specification for Rubber Insulating Covers; and

((*) (iv) ASTM F 712-06, 2011, Standard Test Methods and Specifications for Electrically Insulating Plastic Guard Equipment.

(i) Reserved.

(j) If, during operation of the mechanical equipment, the equipment could become energized, the operation ((shall)) must also comply with at least one of the following:

(i) The energized lines ((shall)) must be covered with insulating protective material that will withstand the type of contact that might be made during the operation.

(ii) The equipment ((shall)) must be insulated for the voltage involved. The equipment ((shall)) must be positioned so that its uninsulated portions cannot approach the lines or equipment any closer than the minimum approach distances specified in Table 6 of this section.

(iii) Each employee ((shall)) must be protected from hazards that might arise from equipment contact with the energized lines. The measures used ((shall)) must ensure that employees will not be exposed to hazardous differences in potential.

(k) When there is a possibility of contact between the pole or the vehicle-mounted equipment used to handle the pole, and an energized power conductor, the following precautions must be observed:

(i) Employ insulating protective equipment or barricades to guard against any hazardous potential differences.

(ii) When on the vehicle which carries the derrick, avoid all contact with the ground, with persons standing on the ground, and with all grounded objects such as guys, tree limbs, or metal sign posts. To the extent feasible, remain on the vehicle as long as the possibility of contact exists.

(iii) When it is necessary to leave the vehicle, step onto an insulating blanket and break all contact with the vehicle before stepping off the blanket and onto the ground. As a last resort, if a blanket is not available, the employee may jump cleanly from the vehicle then take short steps or shuffle away from the vehicle.

(iv) When it is necessary to enter the vehicle, first step onto an insulating blanket and break all contact with the ground, grounded objects and other persons before touching the truck or derrick.

(4) Working position on poles or structures. Climbing and working is prohibited above the level of the lowest electric power conductor on the pole or structure (exclusive of vertical runs and street light wiring), except:

(a) Where communications facilities are attached above the electric power conductors, and a rigid fixed barrier is installed between the electric power facility and the communications facility; or

(b) Where the electric power conductors are cabled secondary service drops carrying less than 300 volts to ground and are attached forty inches or more below the communications conductors or cables.

(5) Neither the employer nor the employees shall throw or permit anything to be thrown from elevated position(s) or poles to the ground or lower level, nor shall anything be thrown from the ground or lower level to an elevated position, whether that elevated position is on a pole, tower, aerial manlift or otherwise. Tools and loose materials ((shall)) must

not be left on poles, towers, ladders or other elevated structures or positions.

(6) Other elevated locations. Approved harnesses and lanyards or lineman's belts and straps ((shall)) must be worn when working at elevated positions on poles or similar structures, which do not have guarded work areas.

(7) Installing and removing wire and cable. Before installing or removing wire or cable, the pole or structure ((shall)) must be guyed, braced, or otherwise supported, as necessary, to prevent failure of the pole or structure.

(8) Avoiding contact with energized power conductors or equipment. When cranes, digger derricks, or other mechanized equipment are used for setting, moving, or removing poles, all necessary precautions ((shall)) must be taken to avoid contact with energized power conductors or equipment by maintaining the minimum approach distance applicable to the voltage located in Table 6 of this section.

(9) Support structures.

(a) No employee, or any material or equipment, shall be supported or permitted to be supported on any portion of a pole structure, platform, ladder, walkway or other elevated structure or aerial device unless the employer ensures that the support structure is first inspected by a competent person and it is determined to be strong, in good working condition and properly secured in place.

(b) Employees ((shall)) must not throw anything from pole to ground, from pole to pole or from ground to pole.

(10) Power exposures.

(a) The employer ((shall)) must ensure that no employee approaches or takes any conductive object closer to any electrically energized overhead power lines and parts than prescribed in Table 6 of this section unless:

(i) The energized parts are insulated or guarded from the employee and any other conductive object at a different potential; or

(ii) The power conductors and equipment are deenergized and grounded.

(b) While handling communication wires, metal sheaths, or communication equipment, contact ((shall)) must be avoided with street lamp brackets, trolley span wires, power guys, and any other power equipment that may be energized. The safest possible working position ((shall)) must be assumed before starting work.

(c) Communication employees ((shall)) must never work in the pole space on jointly used poles between normal primary and secondary attachments.

Table 6
Minimum Approach Distances to Exposed Energized Overhead Powerlines and Parts

Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee Phase-to-Phase or Phase-to-Ground (ft-in)
0 to 0.050	Not Specified
0.051 to 0.300	Avoid Contact
0.301 to 0.750	1-6
0.751 to 15	3-0

15.1 to 36.0	3-6
36.1 to 46.0	4-0
46.1 to 72.5	4-6
Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee from Energized Part Without Tools Phase-to-Phase or Phase-to-Ground (ft-in)
72.6 to 121	5-6
121.1 to 145	6-6
145.1 to 169	7-0
169.1 to 242	10-6
242.1 to 362.0	15-6
362.1 to 420.0	18-4
420.1 to 550.0	22-0
550.1 to 800.0	27-9

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23520 Telecommunications line tree trimming and emergency work. (1) General.

(a) Employees engaged in pruning, trimming, removing, or clearing trees from lines ((~~shall~~)) **must** be required to consider all overhead and underground electrical power conductors to be energized with potentially fatal voltages, never to be touched (contacted) either directly or indirectly and comply with Table 7 of this section for minimum approach distances.

(b) Line clearance tree trimming operations exposing employees to electrical hazards ((~~shall~~)) **must** be addressed by qualified line clearance tree trimmers covered under chapter 296-45 WAC.

(c) Employees engaged in line-clearing operations ((~~shall~~)) **must** be instructed that:

(i) A direct contact is made when any part of the body touches or contacts an energized conductor, or other energized electrical fixture or apparatus.

(ii) An indirect contact is made when any part of the body touches any object in contact with an energized electrical conductor, or other energized fixture or apparatus.

(iii) An indirect contact can be made through conductive tools, tree branches, truck equipment, or other objects, or as a result of communications wires, cables, fences, or guy wires being accidentally energized.

(iv) Electric shock will occur when an employee, by either direct or indirect contact with an energized conductor, energized tree limb, tool, equipment, or other object, provides a path for the flow of electricity to a grounded object or to the ground itself. Simultaneous contact with two energized conductors will also cause electric shock which may result in serious or fatal injury.

(d) Before any work is performed in proximity to energized conductors, the system operator/owner of the energized conductors ((~~shall~~)) **must** be contacted to ascertain if they

know of any hazards associated with the conductors which may not be readily apparent. This rule does not apply when operations are performed by the system operator/owner.

(2) Working in proximity to potential electrical hazards.

(a) Employers ((~~shall~~)) **must** ensure that a close inspection is made by the employee and by the crewleader or supervisor in charge before climbing, entering, or working around any tree, to determine whether an electrical power conductor passes through the tree, or passes within reaching distance of an employee working in the tree. If any of these conditions exist either directly or indirectly, an electrical hazard ((~~shall~~)) **must** be considered to exist unless the system operator/owner has caused the hazard to be removed by deenergizing the lines, or installing protective equipment.

(b) Qualified line clearance tree trimmers or trainees ((~~shall~~)) **must** comply with Table 7 below:

**Table 7
Minimum Working Distances from Energized Conductors for Line-Clearance Tree Trimmers and Line-Clearance Tree-Trimner Trainees**

Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee Phase-to-Phase or Phase-to-Ground (ft-in)
0 to 0.050	Not Specified
0.051 to 0.300	Avoid Contact
0.301 to 0.750	1-6
0.751 to 15	3-0
15.1 to 36.0	3-6
36.1 to 46.0	4-0
46.1 to 72.5	4-6
Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee from Energized Part Without Tools Phase-to-Phase or Phase-to-Ground (ft-in)
72.6 to 121	5-6
121.1 to 145	6-6
145.1 to 169	7-0
169.1 to 242	10-6
242.1 to 362	15-6
362.1 to 420.0	18-4
420.1 to 550.0	22-0
550.1 to 800.0	27-9

(c) Rubber footwear, including lineman's overshoes, ((~~shall~~)) **must** not be considered as providing any measure of safety from electrical hazards.

(d) Ladders, platforms, and aerial devices, including insulated aerial devices, may not be brought in contact with

an electrical conductor. Reliance ((shall)) must not be placed on their dielectric capabilities.

(e) When an aerial lift device contacts an electrical conductor, the truck supporting the aerial lift device ((shall)) must be considered as energized.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23522 Line patrol and work on aerial plants. A minimum of two persons, one of whom ((shall)) must be a qualified person, ((shall)) must be used for line patrol duty at night when observing the overhead line and driving the vehicle must be done simultaneously. If repair to lines or equipment is found to be of such nature as to require two qualified employees, work shall not proceed until additional help has been obtained provided that in cases of emergency where delay would increase the danger to life, limb, or substantial property, one employee may clear the hazard without assistance. Whenever natural light is insufficient to illuminate the worksite, artificial illumination ((shall)) must be provided to enable the employee to perform the work safely.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23523 Storm work and emergency conditions. (1) Since storm work and emergency conditions create special hazards, only authorized representatives of the electric utility system operator/owner or a qualified tree trimmer per chapter 296-45 WAC and not telecommunication employees may perform tree work in these situations where energized electrical power conductors are involved.

(2) When an emergency condition develops due to tree operations, work ((shall)) must be suspended and the electric utility system operator/owner ((shall)) must be notified immediately.

(3) Telecommunication employers ((shall)) must not allow their employees to perform any storm damage work until given the all clear that it is safe to enter an area by the electrical utility system operator/owner.

(4) During storm damage recovery operations and after the utility has given the all clear, all employees working on communications suspension strand and conductive cables ((shall)) must use insulated gloves and an approved voltage detector (20 kV) to test for voltage.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23524 Underground lines and cable vaults. Underground/buried communication lines.

(1) No employer shall permit an employee to work in such proximity to any part of an electric power circuit that the employee could contact the electric power circuit in the course of work, unless the employee is protected against electric shock by deenergizing the circuit and grounding it or by guarding it effectively by insulation or other means.

(2) No person, firm, corporation, or agent of same, shall require or permit any employee to perform any function in

proximity to electrical conductors or to engage in any excavation, construction, demolition, repair, or other operation, unless and until danger from accidental contact with said electrical conductors has been effectively guarded by deenergizing the circuit and grounding it or by guarding it by effective insulation or other effective means.

(3) In work areas where the exact location of underground electric powerlines is unknown, no activity which may bring employees into contact with those powerlines ((shall)) must begin until the powerlines have been positively and unmistakably deenergized and grounded.

(4) Before work is begun the employer must ascertain by inquiry or direct observation, or by instruments, whether any part of an energized electric power circuit, exposed or concealed, is so located that the performance of the work may bring any person, tool, or machine into physical or electrical contact with the electric power circuit. The employer ((shall)) must post and maintain proper warning signs where such a circuit exists. The employer ((shall)) must advise employees of the location of such lines, the hazards involved, and the protective measures to be taken.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23526 Directional boring machines. (1) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees ((shall)) must be removed or supported, as necessary, to safeguard employees.

(2) Underground installations.

(a) The location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, ((shall)) must be located prior to opening an excavation.

(b) Utility companies or owners ((shall)) must be contacted within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

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(3) A walk around safety inspection must be conducted to evaluate and address all potential hazards.

(4) Appropriate PPE requirements must be determined prior to commencing work.

(5) Verify utility locations.

(a) When excavation/directional boring operations approach the location of underground installations, the exact location of the installations ((shall)) must be determined by safe and acceptable means.

(b) While the excavation is open, underground installations ((shall)) must be protected, supported, or removed as necessary to safeguard employees.

(6) Operator training. Operators of drilling, tracking and support equipment must be trained and the employer ((shall)) must certify that each employee has received the training needed.

Note: Employment records that indicate that an employee has received the needed training are an acceptable means of meeting this requirement. Additional training requirements are located in WAC 296-32-22525.

(7) Field operations.

(a) The drill must not be operated without direct, two-way communication between the drill operator and drill locator and/or exit side personnel.

(b) Mechanical breakout wrenches must be used.

(c) Pipe wrenches must not be used as mechanical break-out wrenches.

(8) Electrical hazards.

(a) You must follow manufacturer's recommendations when operating this machinery. Electrical sensing stakes must be driven into the ground and the strike alert system tested prior to operation. The stake must be located a minimum of six feet from the machine.

(b) Any time you drill where electrical hazards may be present you must use the appropriate PPE, including the rubber insulation equipment listed below. (For more information, see WAC 296-32-22550 Rubber insulation equipment.)

(i) Rubber insulating gloves, including protectors for gloves.

(ii) Rubber insulating blankets.

(iii) Rubber insulating boots.

(iv) Other rubber insulating equipment, when applicable.

(c) The employer must make sure that no one touches the drilling machine when in use.

(9) Lock out/tag out. You must use energy control procedures to protect employees servicing, maintaining or performing procedures on machines and equipment that may have potentially hazardous energy.

Note: Additional requirements relating to lock out/tag out are located in chapter 296-803 WAC.

(10) Emergency response. If an existing utility is struck during the boring operation, employees must be trained in emergency procedures to reduce the likelihood of injury.

Types of strikes include:

(★) (a) Electrical;

(★) (b) Gas;

(★) (c) Fiber optic;

(★) (d) Communication lines;

(★) (e) Sanitary/storm sewer and water.

(11) The employer must make sure that barricades are used for the protection of employees and the public when the drilling machine is in use.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23528 Manholes, street openings and vaults. (1) Guarding manholes and street openings.

(a) When covers of manholes or vaults are removed, the opening ((shall)) **must** be promptly guarded by a railing, temporary cover, or other acceptable temporary barrier to prevent an accidental fall through the opening and to protect employees working in the manhole from foreign objects entering the manhole.

(b) When work is to be performed on underground plant, the immediate foreman in charge and/or the craftsman

assigned to do the work ((shall)) **must** make a complete job hazard assessment of the work location in regard to the hazards that are created or that could exist prior to beginning the work in underground plant.

(c) The immediate foreman and/or the craftsman responsible for the job completion ((shall)) **must** be in agreement of the proper method of eliminating or reducing any hazards that are present or could be caused by the location of the worksite, before the job proceeds.

(2) Requirements prior to entry of manholes and unvented vaults.

(a) The internal atmosphere ((shall)) **must** be tested for oxygen deficiency and combustible gas.

(b) Mechanical forced air ventilation ((shall)) **must** be in operation at all times when employees are required to be in the manhole.

(c) The mechanical forced air equipment provided ((shall)) **must** be of a quantity to replace the exhausted air and ((shall)) **must** be tempered when necessary.

(d) Ventilation equipment ((shall)) **must** be designed in such a manner that employees will not be subjected to excessive air velocities.

Note: For additional requirements relating to confined spaces see chapter 296-809 WAC.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23530 Joint power and telecommunication manholes and vaults. (1) While work is being performed in manholes or vaults occupied jointly by an electric utility and a telecommunication utility;

(a) The employer must demonstrate that the employee will be protected from all electrical hazards;

(b) An employee with basic first-aid training ((shall)) **must** be available in the immediate vicinity to render emergency assistance as required;

(c) An employee is not to be precluded from occasionally entering a manhole to provide assistance other than in an emergency.

(2) In manholes or vaults where energized cables or equipment are in service, an employee working alone may only enter, for brief periods of time, for the purpose of inspection, housekeeping, taking readings, or similar work.

Note: Entry procedures meeting the criteria of WAC 296-809-60002 are deemed acceptable. All other entry requirements fall under the permit entry procedures as defined in chapter 296-809 WAC.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23532 Ladders for underground access. (1) Ladders ((shall)) **must** be used to enter and exit manholes exceeding four feet in depth.

(2) Metal and fiberglass manhole ladders ((shall)) **must** be free of structural defects and free of accident hazards such as sharp edges and burrs. The metal ((shall)) **must** be protected against corrosion unless inherently corrosion-resistant. These ladders may be designed with parallel side rails, or

with side rails varying uniformly in separation along the length (tapered) or with side rails flaring at the base to increase stability.

(3) The spacing of rungs or steps ((~~shall~~) must) be on twelve-inch centers.

(4) Connections between rungs or steps and side rails ((~~shall~~) must) be constructed to ensure rigidity as well as strength.

(5) Rungs and steps ((~~shall~~) must) be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize the possibility of slipping.

(6) Ladder hardware ((~~shall~~) must) meet the ladder's component parts and ((~~shall~~) must) be of a material that is protected against corrosion unless inherently corrosion-resistant. Metals ((~~shall~~) must) be so selected as to avoid excessive galvanic action.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23534 Tent heater, torches and open flames. When open flames must be used in manholes, the following precautions ((~~shall~~) must) be taken to protect against the accumulation of combustible gas:

(1) A test for combustible gas ((~~shall~~) must) be made immediately before using any open flame device.

(2) A fuel tank (e.g., acetylene) may not be in the manhole unless in actual use.

(3) Open flames ((~~shall~~) must) not be used within ground tents or on platforms within aerial tents unless:

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

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

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-23536 Lead work. (1) Employer program requirements.

(a) General activities exposing employees to lead hazards the employer must follow the requirements located in WAC 296-62-07521.

(b) Construction activities exposing employees to lead hazards must follow the requirements located in WAC 296-155-176.

(2) When operated from commercial power the metal housing of electric solder pots ((~~shall~~) must) be grounded. Electric solder pots may be used with the power equipment described in WAC 296-32-22540 (6) and (7), without a grounding conductor.

(3) Wiping gloves or cloths and eye protection must be used in lead wiping operations.

(4) A drip pan to catch hot lead drippings must be provided and used.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24005 Wireless communications—General requirements. (1) In addition to the requirements of WAC 296-32-22515 the employer ((~~shall~~) must) ensure that at least two employees on-site are trained and hold current certifications in basic first aid and cardiopulmonary resuscitation (CPR) issued by the American Red Cross or any other organization whose standards are equivalent to the American Red Cross. Employees working alone must have basic first-aid training and hold a valid first-aid certificate.

(2) Training.

(a) In order for employees to work at heights above four feet, they must be authorized and approved for such work by the employer and/or a competent person.

(b) Training of employees ((~~shall~~) must) be performed by a qualified person able to perform such training.

(c) The employer's written work procedures ((~~shall~~) must) be provided to employees as part of their training.

(d) Pictures and symbols may be used as a means of instruction if employee understanding is improved using this method.

(e) The employer ((~~shall~~) must) ensure that each employee working at heights above four feet has been trained in all of the following areas:

(i) The nature of fall hazards in the work area;

(ii) The correct procedures for erecting, maintaining, disassembling, and inspecting the fall protection systems to be used;

(iii) The correct procedures for inspecting fall protection equipment for wear, damage, defect, or deterioration;

(iv) Climbing methods and safety procedures;

(v) The use and operation of the fall protection systems used by the employer, as described in WAC 296-32-22555;

(vi) Identify the duties and responsibilities of various roles, as documented in the fall protection work plans;

(vii) The compatibility of fall protection equipment and fall protection systems.

Note: For establishing and maintaining a program for the control and monitoring of nonionizing radiation hazards (RFR), see WAC 296-32-22572 for additional requirements.

(3) Telecommunications work on high voltage transmission towers and power/utility poles.

(a) Only high voltage lineman or telecommunications/tower employees with equivalent training for working on transmission towers/utility/power poles as required in WAC 296-45-065 are allowed to work on such structures.

(b) Employees must have the skills and techniques necessary to distinguish exposed live parts from other parts of electric equipment.

(c) Employees must have the skills and techniques to determine the nominal voltage of exposed live parts.

(d) Employees must know the minimum approach distances to the voltages to which the employees will be exposed to and measures must be taken to ensure employees and conductive objects will not enter the minimum approach distance. See Table 6 in WAC 296-32-23518.

(e) Employees must be trained and address inductance hazards.

(4) Training program documentation and records to include in-house.

(a) The employer ((~~shall~~)) must document that each employee has been trained with a record that includes all of the following:

(i) The identity of the person trained;

(ii) The signature of the employer or the qualified person who conducted the training;

(iii) The date that training was completed;

(iv) A detailed description of the training.

(b) The employer ((~~shall~~)) must maintain a copy of the training lesson plan for each topic of instruction.

(c) The employer ((~~shall~~)) must prepare the record at the completion of the training required by these rules and ((~~shall~~)) must be maintained for five years.

(d) The most current record ((~~shall~~)) must be kept available for review by the director of the department of labor and industries or his or her designee, upon request.

(e) The employer may only accept training records for previous training by an accredited institute or school, or in-house training if:

(i) The employer verifies that all training and knowledge is up-to-date and applicable to the new employee's job duties; and

(ii) The employee must also demonstrate proficiency in the duties they are required to perform.

(f) In order to fulfill responsibilities under the provisions of the rules in this section, the employer ((~~shall~~)) must, upon request, provide the department of labor and industries or his or her designee access to the following records:

(i) Training records. All material related to the employer's training and education program, see WAC 296-32-22525;

(ii) Medical records and nonionizing radiation exposure records. All medical records and material related to each analysis using exposure or medical records must comply with chapter 296-802 WAC;

(iii) Equipment inspections and testing records. All material related to the modification, repair, test, calibration or maintenance service of all equipment.

(5) A site specific safety plan ((~~shall~~)) must be located on-site and include the following:

(a) The site address to include the coordinates and directions to the site, and local emergency response agency contact information.

(b) The hazard assessment as required in subsections (6) through (8) of this section.

(c) The fall protection work plan as required in WAC 296-32-24012(11).

(d) Emergency procedures including rescue procedures as required in WAC 296-32-24018.

(6) The employer ((~~shall~~)) must ensure that a structure hazard assessment is performed to identify, assess, and control employee exposure to hazards as required by these rules and any other applicable state or federal statutes, rules, or regulations. Hazard assessments required by this rule ((~~shall~~)) must be documented as follows:

(a) Initially and daily for each site by a competent person prior to permitting employees to climb the structure.

(b) When safety and health information or change in workplace conditions indicates that a new or increased hazard may be present.

(7) The hazard assessments required by this rule ((~~shall~~)) must do the following:

(a) Be performed by a competent person.

(b) Evaluate and approve new equipment, materials, and processes for hazards before they are introduced into the workplace.

(c) The contract employer must verify the structural analysis for construction, demolition, and modification of communication structures, antenna supporting structures, mounts, structural components, guy assemblies, insulators and foundations, when required. Refer to ANSI/TIA 222-G, 2014 and Telecommunication construction standards, ANSI/TIA - 322, 2016 and ANSI/ASSE A10.48, 2016.

(d) Identify meteorological conditions that could affect work at heights above four feet on a tower, such as high winds, heat, cold, lightning, rain, snow, or sleet.

(e) Working on towers shall be prohibited during adverse weather conditions.

Note: Thunderstorms in the immediate vicinity, high winds, heat, cold, lightning, rain, snow, or sleet are examples of adverse weather conditions that are presumed to make this work too hazardous to perform, except under emergency conditions.

(8) If hazards are identified, the employer ((~~shall~~)) must assess the severity of identified hazards and implement means to control such hazards, including providing employees with personal protective equipment (PPE) designed to control the identified hazards and ensuring the proper training and use of the PPE by the employees.

(9) Climbing facilities.

(a) If climbing pegs are missing and/or the safety climb's condition is outside the manufacturer's specifications, an alternate means to access the structure must be used.

(b) Climbing space must be kept clear of obstructions or if the climbing space and facility are obstructed, approved climber attachments must be installed to maintain 100 percent fall protection.

(c) These rules ((~~shall~~)) must not require the retrofitting of communication climbing facilities provided that employees who are exposed to fall hazards above four feet while performing work on communication towers are protected from such hazards by means of a 100 percent fall protection system.

(d) If access to the tower is obstructed, the employer ((~~shall~~)) must notify the owner of the antenna/communication system and the tower owner and an alternate means must be utilized to access the tower.

(10) Communication tower/structure evaluation.

(a) The structural integrity, safety systems and loading capacities of the structure must be maintained per the engineered design.

(b) Maintenance and condition assessment must be conducted in accordance with ANSI/TIA 222-G, 2014:

(i) Three-year intervals for guyed towers, and five-year intervals for self-supporting structures and monopoles or in accordance with the schedule established by the engineer of record for the structure owner.

(ii) After severe wind and/or ice storms or other extreme conditions.

(iii) At shorter intervals when the structure has been exposed to corrosive environments or are in areas subject to vandalism.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24010 Antenna work-radio transmitting stations 3-30 MHZ. (1) Prior to grounding a radio transmitting station antenna, the employer ~~((shall))~~ must ensure that the rigger in charge:

(a) Prepares a danger tag signed with their signature;

(b) Requests the transmitting technician to shutdown the transmitter and to ground the antenna with its grounding switch;

(c) Is notified by the transmitting technician that the transmitter has been shutdown; and

(d) Tags the antenna ground switch and verifies with the transmitting technician after the antenna has been grounded.

(2) Power ~~((shall))~~ must not be applied to the antenna, nor shall the grounding switch be opened under any circumstances while the tag is affixed.

(a) Where no grounding switches are provided, grounding sticks ~~((shall))~~ must be used, one on each side of line, and tags ~~((shall))~~ must be placed on the grounding sticks, antenna switch, or plate power switch in a conspicuous place.

(b) To further reduce excessive radio frequency pickup, ground sticks or short circuits ~~((shall))~~ must be placed directly on the transmission lines near the transmitter in addition to the regular grounding switches.

(c) In other cases, the antenna lines may be disconnected from ground and the transmitter to reduce pickup at the point in the field.

(3) All radio frequency line wires ~~((shall))~~ must be tested for pickup with an insulated probe before they are handled either with bare hands or with metal tools.

(4) The employer ~~((shall))~~ must ensure that the transmitting technician warn the riggers about adjacent lines which are, or may become energized.

(5) The employer ~~((shall))~~ must ensure that when antenna work has been completed, the rigger in charge of the job returns to the transmitter, notifies the transmitting technician in charge that work has been completed, and personally removes the tag from the antenna ground switch.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24012 Fall protection. In addition to the following requirements also see WAC 296-32-22555.

(1) The employer ~~((shall))~~ must ensure that at least two qualified climbers are on-site at all times when employees are exposed to fall hazards above four feet.

(2) The employer ~~((shall))~~ must require employees to adhere to acceptable conditions for access, prior to climbing the tower at heights above four feet.

(3) Prior to employees being exposed to elevations above four feet, the employer ~~((shall))~~ must ensure that 100 percent fall protection systems compatible with the tasks assigned are

provided, used, and maintained as required in this chapter and in accordance with the manufacturer's specifications.

(4) In addition to the requirements of WAC 296-32-24005 (5) through (7), all of the following ~~((shall))~~ must occur prior to employees climbing the tower at heights above four feet:

(a) The planning and inspections ~~((shall))~~ must be performed and documented.

(i) All projects requiring climbing ~~((shall))~~ must be planned by a competent person.

(ii) The documentation ~~((shall))~~ must be maintained on-site while work is being performed.

(iii) The documentation ~~((shall))~~ must include the date of the planning and inspection, the name of the competent person performing the planning and inspection, and the site location.

(b) All climbing facilities ~~((shall))~~ must be visually inspected daily at the tower base by a competent person for rust, corrosion, deterioration, structural, mechanical, or other hazards on the climbing facilities that could lead to death or injury of an employee in the performance of their duties. Additionally, the climbing facilities ~~((shall))~~ must be visually inspected for these items as the employees ascend to the elevation point where work is being performed. If any such hazard is identified during this inspection, employees ~~((shall))~~ must not use the climbing facility until such hazards are abated.

(c) Components of a fall protection system (including anchor points) and the fall protection equipment used by employees ~~((shall))~~ must be compatible with one another.

(d) Employees must use engineered anchor points or anchor points designated by a competent person.

Note: Additional requirements relating to cranes and personnel lifting are located in chapter 296-155 WAC, Part L.

(5) An employer ~~((shall))~~ must comply with the requirements of this section in one of the following ways:

(a) Require employees to use the 100 percent fall protection systems.

(b) If the fall protection systems described in this section are not present or do not meet the manufacturer's specifications, the employer ~~((shall))~~ must not permit employees to climb the tower at heights above four feet unless an alternative means of access to the work area is used such as an aerial lift, elevated work platform or other engineered systems.

(6) Positioning device system specifications. Positioning device systems must be used in conjunction with 100 percent fall protection systems and their use ~~((shall))~~ must conform to the following provisions:

(a) Positioning harnesses or full body harnesses ~~((shall))~~ must be used.

(b) Positioning devices ~~((shall))~~ must be rigged to prevent an employee from a free fall greater than two feet.

(c) Positioning devices ~~((shall))~~ 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.

(d) Connectors ~~((shall))~~ must be drop forged, pressed or formed steel, or made of equivalent materials.

(e) Connectors ~~((shall))~~ must have a corrosion-resistant finish, and all surfaces and edges ~~((shall))~~ must be smooth to prevent damage to interfacing parts of this system.

(f) Connecting assemblies ~~((shall))~~ must have a minimum breaking strength of five thousand pounds (22.2 kN).

(g) D-rings and snap hooks ~~((shall))~~ must be proof-tested to a minimum tensile load of three thousand six hundred pounds (16 kN) without cracking, breaking, or taking permanent deformation.

(h) Snap hooks ~~((shall))~~ must be a locking type snap hook designed and used to prevent disengagement of the snap hook by the contact of the snap hook keeper by the connected member.

(i) Reserved.

(j) Unless the snap hook is designed for the following connections, snap hooks ~~((shall))~~ must not be engaged:

(i) Directly to webbing, rope or wire rope;

(ii) To each other;

(iii) To a D-ring to which another snap hook or other connector is attached;

(iv) To a horizontal lifeline; or

(v) To any object which is incompatibly shaped or dimensioned in relation to the snap hook such that unintentional disengagement could occur by the connected object being able to depress the snap hook keeper and release itself.

(7) Vertical lifelines.

(a) All employees suspended from a boatswain's chair or rope descent system must use an independent fall arrest system where the fall arrest anchorage is separate from the suspension system anchorage.

(b) All employees must be connected at all times to the fall arrest system while they are suspended.

(c) All rope used for suspended personnel must have a minimum breaking strength of five thousand pounds for each employee.

(d) Rope used for suspended personnel must not be used for material handling.

(e) The design of a descent control mechanism ~~((shall))~~ must prevent the device from causing an uncontrolled descent.

(f) The design of the manual descent device ~~((shall))~~ must permit operation only when rigged in the correct manner.

(8) Self-rescue devices. Self-rescue devices are not a fall protection system. Self-rescue devices used to self-rescue after a fall ~~((shall))~~ must meet the following requirements:

(a) Use self-rescue devices according to the manufacturer's instructions; and

(b) Self-rescue devices must be addressed by the fall protection work plan.

(9) When working from an aerial lift/crane basket:

(a) Employees must maintain 100 percent fall protection;

(i) When accessing the tower/structure from the aerial lift/crane basket the employee must first tie-off to the tower/structure; and

(ii) After tying-off to the tower/structure the employee must then immediately unhook from the aerial lift/crane basket and access the tower.

Note: An approved break away lanyard may be used to maintain 100 percent fall protection.

(b) Employees must maintain 100 percent fall protection:

(i) When accessing the aerial lift/crane basket from the tower/structure the employee must first tie-off to the aerial lift/crane basket; and

(ii) Then immediately access the aerial lift/crane basket; and

(iii) Then immediately unhook from the tower/structure.

Note: If all the requirements in subsection (9) of this section are met, the aerial lift guardrails may be used to access the tower and get back into the aerial platform.

(10) Ladder safety systems and related support systems for climbing facilities that are used by employees as a means of 100 percent fall protection ~~((shall))~~ must conform to all of the following criteria:

(a) Prior to climbing the structure, a competent person ~~((shall))~~ must ensure that the ladder safety system has been inspected for proper operation and that all components used with the ladder safety system are compatible.

(b) To perform an inspection, the competent person ~~((shall))~~ must do all of the following:

(i) Approach the ladder at the base and connect to the functional safety climb system.

(ii) Attach to the base of the fall arrest system. If the attachment point is above six feet, then 100 percent fall protection ~~((shall))~~ must be used. The 100 percent fall protection ~~((shall))~~ must be attached to an alternate approved anchorage point.

(iii) Forcibly engage the device without letting go of the ladder.

(iv) If the device does not function properly, employees ~~((shall))~~ must not use the device until it functions properly.

(c) If a climbing facility is obstructed, inhibiting the effective use of the ladder safety system, an alternative means of 100 percent fall protection ~~((shall))~~ must be used that is at least as effective as the types of fall protection described by this chapter.

(11) Fall protection work plan. The employer ~~((shall))~~ must develop and implement a written fall protection work plan including each area of the work place where the employees are assigned and where fall hazards of ten feet or more exist.

(a) The fall protection work plan ~~((shall))~~ must include, but not be limited to:

(i) Identify all fall hazards in the work area;

(ii) Describe the method of fall arrest or fall restraint to be provided;

(iii) Describe the proper procedures for the assembly, maintenance, inspection, and disassembly of the fall protection system to be used;

(iv) Describe the proper procedures for the handling, storage, and securing of tools and materials;

(v) Describe the method of providing overhead protection for employees who may be in, or pass through the area below the worksite;

(vi) Describe the method for prompt, safe removal of injured employees; and

(vii) Be available on the job site for inspection by the department.

(b) Prior to permitting employees into areas where fall hazards exist the employer ((~~shall~~)) must ensure employees are trained and instructed in the items described in this section.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24014 Work during hours of darkness.

(1) Climbing towers in the hours of darkness ((~~shall~~)) must only be done after the job hazard assessment has addressed any additional hazards.

(2) Precautions must be addressed for high voltage hazards when working adjacent to substations or transmission/distribution lines which could create additional electrical hazards.

Notes: ((*) 1. For the purpose of this rule, **hours of darkness** means one-half hour before sunset to one-half hour after sunrise.
((*) 2. Any ground work and working in the facilities is allowed with adequate lighting, see WAC 296-32-22535(1).

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24018 Emergency response/rescue requirements. (1) Emergency response. The employer ((~~shall~~)) must establish and document site specific procedures for rescue of employees in the event of an emergency. The employer ((~~shall~~)) must designate its own employees to implement the rescue procedures. The documented procedures ((~~shall~~)) must be available for review by the director of the Washington state department of labor and industries, or his or her designee, upon request.

(2) For elevated high angle rescue the following measures ((~~shall~~)) must be taken:

(a) Ensure at least two competent rescue-trained climbing employees are on-site when employees are working at heights over four feet on the structure. When there are only three employees on-site and one of these employees has been employed for less than twelve months, then that new employee must minimally have documented rescue training which includes steps to be taken in an emergency.

(b) Ensure that personal protective equipment (PPE) and high angle rescue equipment needed to conduct elevated rescues are provided, used, and maintained by the rescue-trained employees.

(c) Train competent rescue employees so they are proficient in the use and maintenance of PPE and high angle rescue equipment needed to conduct elevated rescues.

(d) Train competent rescue employees to perform assigned rescue duties to ensure that they maintain the ability to perform and demonstrate such duties by conducting and documenting simulated rescue operations at least once every twelve months.

(e) The rescue equipment must be used only for rescue and must remain on-site anytime climbers are on towers or other elevated work locations.

(f) The design of the control mechanism ((~~shall~~)) must prevent the user of the device from causing an uncontrolled descent.

(g) The design of the manual descent device ((~~shall~~)) must permit operation only when rigged in the correct manner and have an automatic lock off.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24020 Rigging plan. (1) A rigging plan is intended to ensure that the proper procedures, equipment and rigging is used for each operation and to ensure that the supporting structure can support the rigging loads. A rigging plan ((~~shall~~)) must consider the following items:

- (a) Operational and nonoperational construction loads;
- (b) Construction equipment;
- (c) Supporting structure;
- (d) Construction sequence and duration;
- (e) Required load testing and field monitoring.

(2) Rigging plan criteria. A rigging plan may be very detailed and complex or very simple, depending on the type of job and the type of equipment necessary to complete the job. The following data ((~~shall~~)) must be considered when completing a rigging plan:

- (a) General.
 - (i) Scope of work;
 - (ii) Construction sequence;
 - (iii) Duration of construction;
 - (iv) Monitoring requirements;
 - (v) Rigging plan classification;
 - (vi) Gross loads to be lifted;
 - (vii) Height of lift;
 - (viii) Operational and nonoperational wind loadings;
 - (ix) Load lifting restrictions.
- (b) Gin poles.
 - (i) Vertical or tilted position;
 - (ii) Gin pole identification;
 - (iii) Load chart reference number;
 - (iv) Maximum cantilever required;
 - (v) Forces created by tags;
 - (vi) Load line size and number of parts.
- (c) Basket and bridle attachments. Sling size, type, angle and connection details to the structure and to the gin pole.
- (d) Jumping of a gin pole.
 - (i) Jump line size and number of parts;
 - (ii) Block sizes and connection details;
 - (iii) Gin pole attachment details;
 - (iv) Track details and connections to the structure.
- (e) Hoists.
 - (i) Load chart indicating line pull based on number of layers on the drum;
 - (ii) Hoist line pull required;
 - (iii) Cable sizes and breaking strengths;
 - (iv) Hoist anchorage details;
 - (v) End connection efficiencies;
 - (vi) Distance and orientation from tower base.
- (f) Crown blocks.
 - (i) Block size and capacity;
 - (ii) Sling size and applicable rigging hardware;
 - (iii) Attachment details to the structure, foundation or other support.
- (g) Block size and capacity.

- (i) Sling size and applicable rigging hardware;
- (ii) Attachment details to the structure.
- (h) Tag lines.
- (i) Straight or trolley;
- (ii) Size and type of tag line;
- (iii) Tag angle restrictions.
- (i) Reserved.
- (j) Cranes.
- (i) Main;
- (ii) Tailing;
- (iii) Pedestal;
- (iv) Chicago boom.
- (k) Supporting structure.
- (i) Condition assessment;
- (ii) Temporary guys;
- (iii) Reinforcement to support the rigging loads;
- (iv) Procedures for the removal or reinforcing of structural members;
- (v) Procedures for guy replacement;
- (vi) Procedures for guy tensioning;
- (vii) Guy slippage considerations.
- (l) Miscellaneous.
- (i) Overhaul ball;
- (ii) Condition of appurtenances to be removed;
- (iii) Interference with climbing facilities;
- (iv) Field welding and cutting procedures.

(3) Rigging plans. For Class II, III and IV rigging plans where a load is raised, lowered or suspended by rigging ((~~shall~~) must) have a documented rigging plan. All work that requires rigging ((~~shall~~) must) be classified in accordance with the proposed scope of work and classifications as outlined below:

(a) All construction or maintenance activities ((~~shall~~) must) have a rigging plan classification outlining the project and the responsibilities within that project. Class II, III and IV rigging plans ((~~shall~~) must) have a documented rigging plan.

(b) An on-site competent rigger ((~~shall~~) must) be designated for all classes of construction or maintenance to identify hazards, and authorize corrective measures. For Class III and IV activities, a qualified person ((~~shall~~) must) coordinate the involvement of a qualified engineer as required when establishing rigging plans. A qualified engineer ((~~shall~~) must) perform the analysis of structures and/or components for Class IV activities.

(c) Proposed activities ((~~shall~~) must) be outlined in a written rigging plan prior to implementation of a Class I, II, III and IV activities. The minimum level of responsibility for establishing a rigging plan is specified below:

(i) Class I. The minimum level of responsibility is a competent rigger; the scope of work does not affect the integrity of the structure and the proposed rigging loads are minor in comparison to the strength of the structure. Gross lift loads ((~~shall~~) must) not exceed three hundred fifty pounds;

Note: This class excludes the use of gin poles or other sophisticated lifting devices.

(ii) Class II. The minimum level of responsibility is a competent rigger and the scope of work involves the removal or the addition of appurtenances, mounts, platforms, etc., that involves minor rigging loads in comparison to the strength of

the structure. Gross lift loads ((~~shall~~) must) not exceed five hundred pounds;

(iii) Class III. The minimum level of responsibility is a competent rigger communicating with a qualified person.

(A) The qualified person may communicate with a qualified engineer for clarification or information.

(B) Gross lift loads for lift systems attached to the structure ((~~shall~~) must) not exceed two thousand pounds.

(C) This responsibility includes rigging plans that involve work outside the scope of Class I, II or IV construction.

(D) All new structure and foundation construction ((~~shall~~) must) be classified as a minimum Class III plan. Where structure or foundation strength or stability concerns are present, new construction work ((~~shall~~) must) be classified as Class IV.

(E) Work may be deemed Class III by a qualified person where component modifications are made to connections of structural members where at least one level of redundancy is maintained at all times, the structural member remains secure and engaged in the bracing system, and the work is completed within a continuous workday (for example, bolt replacements on multi-bolt leg flanges). For component modifications where redundancy is in question, the qualified person ((~~shall~~) must) communicate with a qualified engineer for determining the appropriate plan classification. Such communications must be documented and included in the rigging plan.

(F) A qualified person ((~~shall~~) must) be involved for all construction or maintenance activities utilizing cranes or other lifting devices not attached to the structure to ensure proper planning communications between all employers and to determine the need for involvement of a qualified engineer.

(iv) Class IV. The minimum level of responsibility is a competent rigger communicating with a qualified person who will be communicating with a qualified engineer. The scope of work involves custom or infrequent construction methods, removal of structural members or unique appurtenances, special engineered lifts, and unique situations;

(v) All gross lift loads for lift systems attached to the structure in excess of two thousand pounds ((~~shall~~) must) be considered Class IV;

(vi) Planned lifts for lift systems attached to the structure with load position angles exceeding ten degrees, and/or tag angles exceeding seventy degrees for straight tag applications, should include communication with a qualified engineer to ensure the structure and selected attachment point may safely support the resulting rigging forces;

Note: Comprehensive information relating to rigging plans, gin poles, site assessment is contained in the following consensus documents: ANSI/TIA 222-G 2016, ANSI/TIA 322 (Loading Analysis, and Design Criteria Related to the Installation, Alteration and Maintenance of Communications Structures, and in conjunction with ANSI/ASSE A10-48 2016 (Criteria for Safety Practices with the Construction, Demolition, Modification and Maintenance of Communications Structures).

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24022 Gin poles—Installation. When installing gin poles, the employer ((shall)) must ensure that the following requirements are met:

(1) All applicable requirements for design, construction, installation, modification, testing, inspection, maintenance, and operation of gin poles as prescribed by the manufacturer or a registered professional engineer are met.

(2) The gin pole ((shall)) must be attached to a structure in an arrangement with its upper portion cantilevering above the tower top.

(3) The employer ((shall)) must ensure that when the gin pole is designed, consideration ((shall)) must be given to the possibility of personnel climbing the pole to perform rigging functions and for tie off points to accommodate fall protection equipment.

(4) The rooster head which is located at the top of the gin pole ((shall)) must meet the following requirements:

(a) The side plates ((shall)) must have bolts or pins with spacers around the sheave so the load line is held in place and side plate distance is controlled.

(b) Sheave diameter and groove ((shall)) must be designed for the load line size and type being used.

(c) The distance between the sheave edge and the side plate ((shall)) must not exceed twenty-five percent of load line diameter unless a mechanical means is provided to contain the load line within the sheave groove.

(5) Tracks used to guide and support gin poles during the jumping process ((shall)) must not be used as a bridle or mid-level support unless specifically designed for such use.

(6) The load line is used to raise and lower the intended load. The load line ((shall)) must leave the hoist at ground level, go through a block at the base of the tower, then up through the middle of the pole, through the rooster head and back down to the ground to pick up the intended load.

(7) A gin pole chart ((shall)) must be provided for each pole. Gin pole charts ((shall)) must contain all of the following information as a minimum:

(a) Identification number or other reference.

(b) Gin pole description.

(c) Safe lifting capacities (gross load) based on cantilever projection (La), overall gin pole length (L), and type of tag.

Note: (La) is the length of the pole that sticks up above and is not supported by the tower.

(d) Reaction forces at gin pole attachment points.

(e) A table to convert degrees to a field measurement.

(f) A warning that the load chart is for lifting loads and to reduce the safe lifting capacity by one half when lifting personnel.

(8) All lifts ((shall)) must be within the ratings allowed in the "load chart." Any lift or lifting to be allowed on a special basis, which is outside of the "load chart," ((shall)) must only be allowed at the direction of a registered professional engineer. Special monitoring and measuring conditions, as specified by the engineer, ((shall)) must be provided and used in the field during all "special engineered lifts."

(9) Markings for gin poles ((shall)) must be as follows:

(a) Each gin pole ((shall)) must be permanently marked with an identification number that references a specific load chart.

(b) For proper assembly, each section and leg of the gin pole ((shall)) must be marked in a specified sequence.

(10) The designer/engineer specified straightness tolerances ((shall)) must be used for inspection. Minimum inspection criteria for gin poles ((shall)) must be done by a qualified person as follows:

(a) A detailed documented inspection annually or within one year prior to being placed in service.

(b) A general visual inspection during assembly prior to use on a specific project.

(c) After any abnormal occurrence.

(11) Rigging equipment for the gin pole ((shall)) must comply with all of the following:

(a) Wire/synthetic rope, slings, chains, shackles, turnbuckles, links, hooks, sheaves, rotating rooster heads, blocks, and hoists, used in a gin pole lifting arrangement ((shall)) must meet the manufacturer's safe working load limits. In addition, each component other than chain slings, ((shall)) must have a nominal breaking strength of not less than five times the static load applied. Chain slings ((shall)) must have a nominal breaking strength of not less than four times the static load applied. Consideration for end fitting losses and actual positioning of connecting parts ((shall)) must be given.

(b) Lugs or other devices for lifting or attaching the gin pole in position ((shall)) must be designed with load and resistance factors appropriate for their intended use.

(c) Alloy chains and chain terminations ((shall)) must be rated for overhead lifting. Alloy chains ((shall)) must be identified with a manufacturer's mark indicating the grade of the chain.

(d) Only properly heat treated hooks and shackles shall be used. The manufacturer's load rating ((shall)) must be stamped on the product.

(e) The breaking strength of the sheave ((shall)) must equal or exceed the breaking strength of the wire rope intended for the sheave.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24024 Gin poles—Use. (1) Gin pole use ((shall)) must comply with the following:

(a) A user's gin pole load chart ((shall)) must be provided for each pole.

(b) Any special engineered lift that is outside of the load chart ((shall)) must only be allowed at the direction of a registered professional engineer. Monitoring and measuring conditions, as specified by a registered professional engineer, ((shall)) must be provided and used during all special engineered lifts.

(c) Modifications or repairs to the gin pole ((shall)) must be designed and approved by a professional engineer or a qualified gin pole design professional and the repairs inspected by a qualified person prior to returning to service.

(d) A mechanism ((shall)) must be in place to prevent the gin pole from tipping during the jumping process.

(2) Wire rope used for rigging ((shall)) must be as follows:

(a) Compatible with the sheaves of the rooster head and hoisting blocks.

(b) Lubricated in accordance to manufacturer specifications to prevent corrosion and wear.

(c) End connections ((shall)) must be terminated per industry and manufacturer's specifications.

(d) Wedge sockets ((shall)) must have a minimum tail length of one rope lay with a properly torqued clip attached to prevent accidental disengagement.

(e) Only manufactured Flemish eyes will be acceptable.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24026 Gin poles—Inspections. The employer ((shall)) must ensure that gin pole inspections include all of the following:

(1) Gin poles ((shall)) must have a documented inspection annually by a qualified person.

(2) In addition to the annual inspection, the employer ((shall)) must designate a competent person who ((shall)) must visually inspect the gin pole and rigging prior to each use, and during use, to ensure it is in safe operating condition. Any deficiencies ((shall)) must be repaired before use continues.

(3) During each inspection, a qualified person or a competent person ((shall)) must do all of the following:

(a) Inspect the legs and bracing members for bends or distortion.

(b) Inspect the straightness tolerances for the overall assembly (including leg and bracing members).

(c) Visually inspect the welds for quality, deformation, cracks, rust, pitting, or loss of cross sectional area.

(d) Inspect the members for excessive rust, pitting, or loss of cross sectional area.

(e) Inspect the sling attachment points for distortion, wear, cracks, and rust.

(f) Ensure that proper bolts are used and all associated hardware is in good condition.

(g) Inspect side plates on rooster heads for distortion or other damage.

(h) Inspect all attachment hardware, including rigging and parts such as cables, slings, and sling attachment points, shackles, hooks, and sockets for wear, distortion, cracks, and rust.

(i) Ensure that all problems identified during the inspection are corrected before placing the gin pole into service.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24028 Base mounted hoists used for overhead material lifting and personnel lifting. (1) This section provides minimum design and use criteria for hoist mechanisms used for overhead material lifting and personnel lifting during the construction and/or maintenance of communication structures. All hoist mechanisms ((shall)) must meet applicable requirements for design, construction, installation, testing, inspection, maintenance and operations as pre-

scribed by the manufacturer or the qualified person designing the system. At a minimum the hoist mechanism ((shall)) must comply with this standard.

(2) Design. The following identifies the minimum design parameters for those hoists used for overhead lifting and for lifting personnel.

(a) Design for overhead lifting.

(i) The hoist used for overhead lifting ((shall)) must meet the applicable requirements for design, construction, installation, testing, inspection, maintenance, modification, repair and operations as prescribed by the manufacturer.

(ii) Where manufacturers' specifications are not available, the limitations assigned to the equipment ((shall)) must be based on the determinations of a registered professional engineer.

(iii) The hoist mechanism may be designed to lift materials and also personnel with the same drum or drums.

(b) Design for personnel lifting.

(i) If the hoist has the ability to free spool, it must have a positive locking system to prevent free spooling during hoisting.

(ii) If the unit has the capability of exceeding two hundred feet per minute during operations, it must have a line speed indicator.

(iii) Hoists used for lifting personnel ((shall)) must have a visible tag on the unit indicating the unit complies with the standard.

(c) Structural design for overhead and personnel lifting.

(i) During hoist assembly, the frame of the winch assembly and attached components ((shall)) must be designed to resist at least two times the maximum attainable line pull.

(ii) Flatness of the mounting surface ((shall)) must be held to tolerances specified by the hoist manufacturer.

(iii) The alignment of winch assembly components will be maintained within limits that ((shall)) must prevent premature deterioration of gear teeth, bearings, splines, bushings and any other parts of the hoist mechanism.

(iv) All winch drums ((shall)) must have a positive means of attaching the wire rope to the drum. The hoist drum ((shall)) must be designed to raise and lower 125 percent of the rated load of the hoist.

(d) Brakes. Brakes for overhead lifting.

(i) Hoist brakes ((shall)) must be capable of controlling the descent of a load.

(ii) Hoist brakes ((shall)) must be capable of stopping the load and minimize inertia loading.

(iii) If the hoist mechanism has the ability to free spool, then it ((shall)) must have a means of controlling the load during the raising and lowering of loads.

(iv) Brakes ((shall)) must be provided to prevent the drum from rotating in the lowering direction and ((shall)) must be capable of holding the load indefinitely without attention from the operator.

(v) Units that have no continuous mechanical linkage between the brake actuator and the brake ((shall)) must have a means of holding the load when there is a loss of brake actuating power on the winch assemblies.

(vi) Static brakes ((shall)) must be provided to hold the drum from rotating in the lowering direction and ((shall))

must be capable of holding the load indefinitely without attention from the operator.

(vii) Brakes, which are applied on stopped hoist drums, ~~((shall))~~ must have sufficient impact capacity to hold 1.5 times the rated torque of the hoist.

(viii) Brakes ~~((shall))~~ must be provided with adjustments, where necessary, to compensate for wear and to maintain adequate force on springs where used.

(ix) Foot-operated pedals, where provided, ~~((shall))~~ must be constructed so the operator's feet will not readily slip off, and the force necessary to move the pedals ~~((shall))~~ must be easily accomplished.

(x) Foot-operated brakes ~~((shall))~~ must be equipped with a locking device to maintain the brake in a loaded position.

(e) Brakes for lifting personnel.

(i) Winch assemblies ~~((shall))~~ must be provided with a primary brake and at least one independent secondary brake, each capable of holding 125 percent of the lifting and lowering capacity of the hoist.

(ii) The primary and secondary brake ~~((shall))~~ must be directly connected to the drive train of the winch assembly and ~~((shall))~~ must not be connected through belts, chains, etc.

(iii) The primary and secondary brake, when actuated, ~~((shall))~~ must decelerate, stop and hold the load in a controlled manner.

(iv) When the primary brake fails, the secondary brake ~~((shall))~~ must actuate automatically and hold the load in a controlled manner.

(v) A means to set brakes automatically in the event the loss of brake actuating power ~~((shall))~~ must be provided on winch assemblies that have no continuous mechanical linkage between the brake actuator and the brake.

(vi) Brakes ~~((shall))~~ must be automatically applied upon return of the control lever to its center (neutral) position.

(f) Controls for overhead and personnel lifting.

(i) All controls used during the normal operation of the hoist mechanism ~~((shall))~~ must be located within easy reach of the operator while at the operator's station.

(ii) There ~~((shall))~~ must be means to start and stop the prime mover under emergency conditions from the operator's station.

(iii) All control levers ~~((shall))~~ must be clearly marked and easily visible from the operator's station.

(iv) All hoist control levers that are designed to do so, must spring return to neutral when released or have a comparable system that allows the braking mechanism to set automatically.

(g) Hour meter. In order to comply with the inspection criteria, there ~~((shall))~~ must be an hour meter used as a means of monitoring the operating time a hoist winch assembly operates.

(h) Machine guarding.

(i) Belts, pulleys, gears, shafts, sprockets, spindles, drums, fly wheels, chains or other rotating parts ~~((shall))~~ must be fully guarded to prevent employee contact.

(ii) All exhaust pipes ~~((shall))~~ must be guarded where exposed to employee contact.

(3) Inspection and maintenance. The following are the requirements for inspection and maintenance for all hoists:

(a) General guidelines.

(i) The hoist ~~((shall))~~ must have a documented daily inspection by a competent person before use.

(ii) Prior to initial use, all new, altered or modified hoist mechanisms ~~((shall))~~ must be inspected by a qualified person.

(iii) Inspection records ~~((shall))~~ must be available and accessible for a minimum of two years.

(iv) The teardown inspection records ~~((shall))~~ must be available until the next teardown inspection is completed.

(v) Any hoist that has been idle for a period of over six months ~~((shall))~~ must be given an annual inspection prior to use.

(vi) Any hoist that has an unknown history of repair or maintenance ~~((shall))~~ must have a tear down inspection prior to use.

(b) Inspection criteria. Before use, a competent person familiar with the applicable hoist ~~((shall))~~ must visually inspect the hoist to verify that the following conditions are met:

(i) A documented daily inspection ~~((shall))~~ must be performed which ~~((shall))~~ must include at a minimum:

(A) Engine oil level ~~((shall))~~ must be checked.

(B) Engine coolant levels ~~((shall))~~ must be checked.

(C) Check for external oil leaks.

(D) Hydraulic oil reservoir level ~~((shall))~~ must be checked.

(E) All safety devices and brakes ~~((shall))~~ must be checked for wear and tear to ~~((assure))~~ ensure they function properly.

(F) A visual inspection ~~((shall))~~ must be conducted for loose or missing structural connections.

(ii) A documented semi-annual inspection ~~((shall))~~ must include the daily inspection and the following:

(A) Winch oil level ~~((shall))~~ must be checked.

(B) All safety devices and brakes ~~((shall))~~ must be tested to ~~((assure))~~ ensure they are functioning properly.

(C) A visual inspection ~~((shall))~~ must be conducted for loose or missing structural connections.

(D) A complete oil analysis ~~((shall))~~ must be conducted.

(E) The winch assembly ~~((shall))~~ must be dynamically tested in both the hoisting and lowering directions while under a load of at least 30 percent of the hoist lifting capacity.

(F) The inspection ~~((shall))~~ must be documented in writing and maintained for two years.

(ii) A documented annual inspection ~~((shall))~~ must include the items in the daily and semi-annual along with the following:

(A) Lubricating oil and hydraulic fluids ~~((shall))~~ must be tested according to the manufacturer's specification for contaminants and replaced if necessary.

(B) The annual inspection ~~((shall))~~ must be documented and maintained for two years.

(c) Teardown criteria for overhead material lifting. A teardown inspection of the winch assembly ~~((shall))~~ must be completed under the supervision of a qualified person using the manufacturer's specifications and includes at a minimum the following:

(i) A teardown inspection ~~((shall))~~ must include the hoist being completely disassembled, cleaned and inspected, replacement of all worn, cracked, corroded or distorted parts

such as pins, bearings, shafts, gears, brake rotors, brake plates, drum and/or base;

(ii) After a teardown inspection, a certificate ~~((shall))~~ must be issued that includes the following:

- (A) The effective date of the repair.
- (B) The asset and serial numbers of the unit.
- (C) The name of the repair shop.
- (D) The name of the qualified person.
- (d) Teardown criteria for lifting personnel.

(i) Those winch assemblies that adhere to the required daily, monthly, semi-annually and yearly inspection criteria ~~((shall))~~ must conform to the following teardown inspection time frame:

- (A) Severe duty every three years.
- (B) Moderate duty every five years.
- (C) Infrequent use every seven years.

(ii) Those winch assemblies that do not adhere to this documented inspection criteria, ~~((shall))~~ must have a tear-down inspection every three years.

(iii) During any inspection, items found that may affect the performance of the unit must be repaired before use.

(iv) Documentation of the inspection ~~((shall))~~ must include, but not be limited to, winch model and serial number, name and employer of repair/inspection technician, date and description of findings, parts replaced and test results.

(4) Repair and modifications. The manufacturer's specifications and guidelines for repair and modification ~~((shall))~~ must be used; however, when these are not available, the following minimum requirements ~~((shall))~~ must be used:

(a) All repairs and modifications ~~((shall))~~ must be made under the supervision of a qualified person.

(b) Repaired hoists ~~((shall))~~ must be line pull tested to the maximum rated load and the winch assembly ~~((shall))~~ must be rotated several times in both hoisting and lowering directions under maximum rated load while checking for smooth operation.

(c) Prior to initial use, all new, altered or modified hoist mechanisms ~~((shall))~~ must be inspected by a competent person.

(d) Documentation of all modifications and repairs ~~((shall))~~ must be maintained and available for review for a minimum of two years.

(e) If modifications alter the line pull or performance of the unit, then a revised load chart must be developed and installed to reflect the change.

(5) Training. All hoist operators ~~((shall))~~ must be qualified in accordance to the complexities of the work and of the hoist they are operating. Hoist operators may attain qualification through a combination of classroom training; experience gained under the direct supervision of a qualified hoist operator, and demonstrated proficiency.

(a) During training or until the training requirements are met, the operator must not operate the hoist during personnel hoisting operations.

(b) An operator ~~((shall))~~ must be trained in accordance to the class of machine they will be operating:

- (i) Class A - 1,000 lbs. or less.
- (ii) Class B - 1,000 lbs. to 5,000 lbs.
- (iii) Class C - Greater than 5,000 lbs.

(c) The operator at a minimum ~~((shall))~~ must have the following training:

(i) Ensure the hoist operator has classroom training in hoist operations; a minimum of forty hours as a hoist operator under the direct supervision of a qualified hoist operator, not less than eight hours in the operation of the class of hoist or one of the same type, and has demonstrated the ability to safely operate the hoist.

(ii) The operator ~~((shall))~~ must have documented practical training on the safe operation of the applicable hoist by using the following:

- (A) Operator's manual provided by the manufacturer;
- (B) Company policy;
- (C) Be familiar with hand signals being used;
- (D) Be familiar with the operations of two-way radios if they are being used;
- (E) Be familiar with the work being completed.

(iii) The operator ~~((shall))~~ must have a designated signal person and must take a stop signal from anyone.

(6) Operator requirements and responsibilities. Operator and operator trainees ~~((shall))~~ must meet the following physical qualifications unless it can be shown that failure to meet the qualifications will not affect the operation of the hoist. In such cases, specialized clinical or medical judgments and tests may be required.

(a) Vision of at least 20/30 Snellen in one eye and 20/50 in the other, with or without corrective lenses.

(b) Ability to distinguish colors, regardless of position, if color differentiation is required.

(c) Adequate hearing to meet operational demands, with or without hearing aid.

(d) Sufficient strength, endurance, agility, coordination, and speed of reaction to meet the operation demands.

(e) No tendencies to dizziness, seizures or similar characteristics.

(f) No evidence of having physical or emotional instability that could render a hazard to the operator or others.

(g) The operator ~~((shall))~~ must have adequate eyesight for the operation.

(h) The operator ~~((shall))~~ must not engage in any practice which will divert their attention while operating.

(i) The operator ~~((shall))~~ must be responsible for those operations under their direct control.

(j) Whenever there is any doubt as to safety, the operator shall have the authority to stop and refuse to handle the load until the situation is remedied.

(k) The operator ~~((shall))~~ must not leave their position at the controls while a load is suspended.

(l) Before starting the hoist mechanism the operator ~~((shall))~~ must ensure that:

- (i) The daily inspection has been done;
- (ii) All controls are in the off position; and
- (iii) All personnel are in the clear.

(7) Designated operators. The hoist mechanism can be operated by:

- (a) Designated operators;
- (b) Trainees under the direct supervision of a designated operator;
- (c) Qualified maintenance and test personnel during repairs or testing; or

(d) Inspectors.

(8) Operations. During operations, the hoist operator ~~((shall))~~ must comply with the following:

(a) The drum flange will be a minimum of two times the wire rope diameter higher than the top layer of the wire rope.

(b) The hoist drum ~~((shall))~~ must have a diameter or enough layers on the drum to maintain a minimum of an 18:1 pitch diameter ratio or the proper reduction based on the applicable D:d ratios.

(c) No less than three wraps of wire rope shall be maintained on the drum at all times.

(d) The hoist ~~((shall))~~ must be positioned so that it is level and the distance between the drum and the foot block at the base of the tower will allow proper spooling of wire rope.

(e) The foot block ~~((shall))~~ must be anchored to prevent displacement and be supported to maintain proper alignment.

(f) An accessible fire extinguisher of 5BC rating or higher ~~((shall))~~ must be at the operator's station.

(9) Operator's manual. There must be an operator's manual on-site and readily available for the applicable unit which was developed by the manufacturer, or registered professional engineer, for the specific make and model of hoist being used.

(10) Load chart. The following postings ~~((shall))~~ must be at the control station readily visible or available to the operator.

(a) Where the rated capacities are inaccessible the operator must immediately cease operations or follow safe shut-down procedures until the rated capacities are available.

(b) Rated load capacities, recommended operating speeds and special hazard warnings, or instructions ~~((shall))~~ must be conspicuously posted on all hoists.

(c) If a gin pole, derrick, pedestal crane or similar special lifting device is used with a base mounted hoist or winch to make lifts on a structure, the operator ~~((shall))~~ must have a load chart on-site for the lifting mechanism and its use ~~((shall))~~ must be included in the rigging plan for the job.

(11) Hoist anchorage.

(a) The hoist anchorage, at a minimum, ~~((shall))~~ must have a working load limit (calculated with a minimum 2.0 safety factor) equal to or greater than the maximum anticipated hoist load. Alternately, a load test of 1.5 times the maximum anticipated hoist load under the expected site conditions during the lift may be used to verify the adequacy of the hoist anchorage.

(b) Twisting, turning and sliding resistance ~~((shall))~~ must be investigated.

(c) When calculating allowable sliding resistance, the assumed coefficient of friction ~~((shall))~~ must not exceed 0.20 and incorporate a minimum 2.0 safety factor unless the coefficient of friction is determined by a registered professional engineer.

(d) The weight of the hoist ~~((shall))~~ must be considered with the minimum load line remaining on the drum for the lift.

(e) When personnel are lifted, the maximum anticipated hoist load ~~((shall))~~ must not exceed 50 percent of the hoist anchorage capacity.

(12) Communications.

(a) Loads being hoisted ~~((shall))~~ must remain in continuous sight of and/or in direct communication with the operator or signal person.

(b) When hand signals are used, the employees must use standard hand signals.

(c) In those situations where direct visual contact with the operator is not possible and the use of a signal person would create a greater hazard, direct communication alone, such as by radio, ~~((shall))~~ must be used.

(d) When radios are used, they ~~((shall))~~ must be nont-runked closed 2-way selective frequency radio systems and the device(s) ~~((shall))~~ must be tested on-site before beginning operations to ensure that the signal transmission is; effective, clear, reliable and the operator ~~((shall))~~ must utilize a hands free system for receiving such signals.

(13) Weather conditions. Loads ~~((shall))~~ must not be hoisted during adverse weather conditions (high winds, electrical storms, snow, ice or sleet) or when there is other impending danger, except in the case of emergency or employee rescue.

(14) Rigging plans. All hoist operations ~~((shall))~~ must be part of a rigging plan as applicable in this chapter. The hoist operator ~~((shall))~~ must have knowledge and understanding of the rigging plan and a copy readily available.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24032 Personnel lifting—General requirements. (1) Personnel platforms and/or their suspension systems must be designed, constructed and tested according to ASME B30.23-2005, Personnel Lifting Systems. The design and manufacturer's specifications must be made by a registered professional engineer.

Note: Additional requirements relating to personnel lifting are located in chapter 296-155 WAC, Part L.

(2) Before an employee may perform any job related to hoisting employees aloft for work, the employee ~~((shall))~~ must receive training on all facets of the process. The operator of the hoist ~~((shall))~~ must have a thorough understanding and comply with subsections (2) through (9) of this section pertaining to hoisting employees on the hoist line.

(3) Overhaul ball. This subsection sets forth the minimum requirements for the design and use of an overhaul ball as part of the lifting system.

(a) The weight of the ball ~~((shall))~~ must overhaul the weight of the load line based on its own weight.

(b) If the ball is an integral part of the system and the load goes through the ball, then it must be designed accordingly.

(c) The ball ~~((shall))~~ must be designed with attachment points at the top and bottom.

(d) A maximum of two employees may be attached to the ball at one time.

(4) An anti-two block device ~~((shall))~~ must be used on all hoists, except where an employer can demonstrate that ambient radiation frequency (RFR) precludes that use. In such case, a site-specific rigging plan ~~((shall))~~ must be established and maintained on-site to ensure that two blocking cannot occur and that effective communication between the hoist

operator and personnel being hoisted is maintained. This plan may include a cable marking system, an employee situated on the tower in a position to observe the top block, or any other system that will adequately ensure communication. All of the following ((shall)) must apply:

(a) A qualified person ((shall)) must make the following determinations:

(i) The rigging, hoist line, and slings ((shall)) must have a factor of safety of 10:1 against failure during personnel lifts;

(ii) The hoist line used to raise or lower employees must be wire rope and may be equipped with a swivel to prevent any rotation of the employees;

(iii) If a swivel is not used, then an alternate means ((shall)) must be used to keep the employees under control at all times;

(iv) If spin resistant wire rope is used, additional and more frequent inspections are required due to different wear trends.

(b) When hoisting personnel (versus material), the hoist capacity load rating ((shall)) must be derated by a factor of two (reduced by one half) and must maintain a 10:1 factor of safety after the reduction is considered. All employees ((shall)) must be provided with and required to use the proper personal protective equipment (including fall protection equipment) that ((shall)) must be inspected each day before use.

(c) Except where the employer can demonstrate that specific circumstances or conditions preclude its use, a guide line (tag line) ((shall)) must be used to prevent the employees or the platform from contacting the tower during hoisting.

(d) The gin pole ((shall)) must be thoroughly inspected before use by a competent person to determine that it is free from defects including, but not limited to, damaged and/or missing members, corrosive damage, missing fasteners and cracked or broken welds at joints, and general deterioration.

(e) The gin pole ((shall)) must be attached to the tower as designed by a registered professional engineer. There ((shall)) must be a minimum of two attachment locations, one at the bottom of the gin pole and one near the top of the tower or the highest position available on the structure.

(f) The personnel load capacity and material capacity of the lifting system in use ((shall)) must be posted at the site near the location of the hoist operator. If the system is changed (for example, if the gin pole angle is changed), the posted capacity ((shall)) must be changed accordingly.

(g) In situations where a gin pole is not being used on a communication tower and similar structures, a crown block may be used on the structure instead of a gin pole for access to the work location.

(5) A trial lift of the maximum intended personnel load ((shall)) must be made from ground level to the location to which personnel are to be hoisted.

(a) The trial lift ((shall)) must be made immediately prior to placing personnel on the hoist line.

(b) The hoist operator ((shall)) must determine that all systems, controls, and safety devices are activated and functioning properly.

(c) A single trial lift may be performed for all locations that are to be reached from a single set-up position.

(d) The hoist operator ((shall)) must determine that no interference exists and that all configurations necessary to reach those work locations remain under the limit of the hoist's rated capacity and additionally maintain a 10:1 factor of safety against failure.

(e) The trial lift ((shall)) must be repeated prior to hoisting employees whenever the hoist is moved and set up in a new location or returned to a previously used position.

(f) After the trial lift, employees ((shall)) must not be lifted unless the following conditions are met:

(i) Hoist wire ropes are determined to be free of damage in accordance with WAC 296-32-22555 and 296-155-53404.

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

(iii) The proof testing requirements have been satisfied.

(g) If the hoist wire rope is slack, the hoisting system ((shall)) must be inspected to ensure that all wire ropes are properly seated on drums and in sheaves.

(h) A visual inspection of the hoist, rigging, base support, and foundation ((shall)) must be made by a competent person immediately after the trial lift to determine whether testing has exposed any defect or adverse effect upon any component of the structure.

(i) Any defects found during the inspection that may create a safety hazard ((shall)) must be corrected and another trial lift ((shall)) must be performed before hoisting personnel.

(ii) Prior to hoisting employees and after any repair or modification, the system ((shall)) must be proof tested to its rated load, holding it in a suspended position for 5 minutes with the test load evenly distributed (this may be done concurrently with the trial lift).

(iii) After proof testing, a competent person ((shall)) must inspect the rigging. Any deficiencies found ((shall)) must be corrected and another proof test ((shall)) must be conducted.

(6) A prelift meeting ((shall)) must be held before the trial lift at each location and each time a new employee is assigned to the operation. The prelift meeting ((shall)) must meet both of the following requirements:

(a) The hoist operator, each employee to be lifted, and the crew chief ((shall)) must attend.

(b) The hoist operator ((shall)) must review the procedures to be followed and all appropriate requirements contained in this rule with the other individuals present.

(7) The employer ((shall)) must ensure that all trial lifts, inspections, and proof tests ((shall)) must be performed and documented, and the documentation ((shall)) must remain on-site during the entire length of the project. The employer ((shall)) must ensure that the prelift meeting is documented, and the documentation ((shall)) must remain on-site during the entire length of the project.

(8) Employees ((shall)) must be hoisted to their work stations by using a personnel platform or by using a boatswain chair and/or boatswain seat-type full body type harness.

(a) When a boatswain chair or boatswain seat-type full body harness is used to hoist employees, the following ((shall)) must apply:

(i) Not more than two employees may be hoisted at a time.

(ii) When hoisting an employee in a boatswain type full body harness, the harness ~~((shall))~~ must be attached to the hoist wire rope line in such a manner as to utilize the boatswain seat part of the harness, placing the employee into a sitting position and a fall arrest lanyard must be attached from the back D ring of the full body harness to a separate attachment point.

(iii) Only locking-type snap hooks shall be used.

(iv) The harness ~~((shall))~~ must be equipped with two side rings and at least one front and one back D ring.

(v) The hoist line hook ~~((shall))~~ must be equipped with a safety latch that can be locked in a closed position to prevent loss of contact.

(vi) Employees must maintain 100 percent tie-off while moving between the hoist line and the tower.

(b) When a personnel platform is used, the following provisions must be followed:

(i) The maximum rate of travel ~~((shall))~~ must not exceed two hundred feet per minute when a tag or trolley line is used to control personnel hoists. When a tag or trolley line cannot be used, the rate of travel of the employee being hoisted ~~((shall))~~ must not exceed one hundred feet per minute.

(ii) In all personnel hoist situations, the maximum rate ~~((shall))~~ must not exceed 50 feet per minute when personnel being lifted approaches to within fifty feet of the top block.

(iii) The use of free-spooling (friction lowering) is prohibited. When the hoist line is being used to raise or lower employees, there ~~((shall))~~ must be no other load attached to any hoist line and no other load ~~((shall))~~ must be raised or lowered at the same time on the same hoist.

(iv) As-built drawings approved by a registered professional engineer ~~((shall))~~ must provide the lifting capacity of the gin pole and ~~((shall))~~ must be available at the job site.

(v) The gin pole raising line ~~((shall))~~ must not be used to raise or lower employees unless it is rated for lifting employees.

(vi) Employees must maintain 100 percent tie-off while moving between the personnel platform and the tower.

(9) Employees being hoisted ~~((shall))~~ must remain in continuous sight of and/or in direct communication with the operator or signal person. The following ~~((shall))~~ must apply:

(a) In those situations where direct visual contact with the operator is not possible and the use of a signal person would create a greater hazard for the person being hoisted, direct communication alone, such as by radio, ~~((shall))~~ must be used.

(b) When radios are used, they ~~((shall))~~ must be nont-runked closed 2-way selective frequency radio systems. When hand signals are used, the employees must use industry standardized hand signals.

(10) Employees ~~((shall))~~ must not be hoisted during adverse weather conditions (high winds, heat, cold, lightning, rain, snow or sleet) or other impending danger, except in the case of emergency employee rescue. The competent person ~~((shall))~~ must make the determination.

(11) The hoist system (gin pole and its base hoists) used to raise and lower employees on the hoist line, ~~((shall))~~ must not be used unless the following clearance distances in Table 8 are maintained at all times during the lift:

Table 8

Power line voltage phase to phase (kV)	Minimum safe clearance (feet)
50 or below	10
Above 50 to 200	15
Above 200 to 350	20
Above 350 to 500	25
Above 500 to 750	35
Above 750 to 1,000	45

Note: Additional requirements relating to rigging are located in chapter 296-155 WAC, Parts F-1 and L.

AMENDATORY SECTION (Amending WSR 17-20-069, filed 10/2/17, effective 1/1/18)

WAC 296-32-24034 Helicopters used for lifting loads. This section sets forth the minimum requirements for individuals working with helicopters used as a method for the installation, replacement, and/or removal of antennas and antenna supporting structures.

(1) Helicopters and helicopter cranes used for external load lifting during construction, maintenance and demolition activities ~~((shall))~~ must comply with any and all applicable regulations of the Federal Aviation Administration (FAA) Part 133 for helicopter external sling load operations.

(2) Operator/pilot responsibilities. The helicopter operator/pilot ~~((shall))~~ must be responsible for their machine and the operations of their equipment.

(3) FAA flight plan. All helicopter external load lifting must be reviewed by the FAA to determine if an FAA Congested Area Flight Plan must be applied for. If a plan is required, it must be filed and approved by the FAA prior to the day of the lift.

(4) Loose gear, equipment and objects. Every practical precaution ~~((shall))~~ must be taken to provide for the protection of the employees from flying objects in the rotor downwash. All loose gear, equipment and materials within one hundred feet of the load lifting area and setting the load, and all other areas susceptible to rotor downwash ~~((shall))~~ must be secured or removed.

(5) Operational parameters.

(a) The aircraft owner/operator/pilot(s) ~~((shall))~~ must be responsible for the helicopter load lifting operations. The weight of an external load ~~((shall))~~ must not exceed the manufacturer's rating for the specific aircraft being used. The helicopter operator/pilot ~~((shall))~~ must be responsible for size, weight and manner in which loads are connected to the helicopter. If, for any reason, the helicopter operator/pilot believes the lift cannot be made safely, the lift ~~((shall))~~ must not be made.

(b) The helicopter operator/pilot ~~((shall))~~ must be familiar with the following:

(i) Load capacities at altitudes and air densities;

(ii) Hover capacities and limits;

(iii) Emergency operation and release of electricity operated cargo hooks;

(iv) Emergency jettison of external sling load;

- (v) Static discharge of external sling load; and
- (vi) Rotor downwash hazards during external sling load operations.

(6) Prejob planning. The use of a helicopter for lifting loads requires careful planning. The work must be organized around the aircraft and the factors that govern its operation such as load limitations, surrounding terrain and structures, and weather conditions. This requires the participation and cooperation of everyone involved. Planning includes, but is not limited to:

- (a) Locate and plan the staging area;
- (b) Provide for fire watch and spills;
- (c) Prepare flight plans;
- (d) Divide the job into lifting zones;
- (e) Plan the load lifting sequence;
- (f) Do alternate day planning.

(7) Helicopter on board hoists. Helicopters or helicopter cranes equipped with on board hoists or winches ((~~shall~~)) must not be allowed to be attached or connected to any fixed structure on the ground at any time.

(8) Signaling systems. Signal systems between aircrew and ground personnel ((~~shall~~)) must be understood and checked in advance of hoisting the load. This applies to either radio or hand signal systems.

(9) Helicopter refueling. Due to the load lifting abilities and capacities of individual models of aircraft flight with low fuel levels is common. It may become necessary to refuel the helicopter at the designated staging/lift area. Care must be given to ensure the aircraft is grounded per the manufacturer's recommendation during all refueling activities.

(10) Daily preflight briefing. Prior to each day's operation a job hazard assessment ((~~shall~~)) must be conducted. This assessment ((~~shall~~)) must set forth the plan of operation for all individuals involved in the helicopter external sling load lift. The preflight briefing ((~~shall~~)) must include, but not be limited to, the following:

- (a) Weather forecast and visibility for the day of the lift(s);
- (b) Confirmation of flight path;
- (c) Load lifting sequence;
- (d) Individual load weights;
- (e) Wind speed and direction monitoring;
- (f) Ground crew responsibilities;
- (g) Load receiving crew's responsibilities;
- (h) Pilot's responsibilities;
- (i) Communications/signaling;
- (j) Aircraft fuel loading and refueling;
- (k) Emergency plan for load jettison and landing.

(11) Lifting plan.

(a) The lifting plan ((~~shall~~)) must at a minimum cover:

- (i) Load identification;
- (ii) Lifting sequence; and
- (iii) Load orientation marks or tags.

(b) Loads that do not require upending ((~~shall~~)) must be oriented in the same direction in the staging area as the lay-down area. You must:

- (i) Plan the layout of the staging area to avoid any light or unstable material that may blow around; and

(ii) Plan the lifting and flight path to avoid flying over employees and any material still being installed or not yet secure in the laydown area.

(12) Job hazard analysis/risk assessment. During the job hazard assessment, at a minimum, identify, assess, and eliminate or provide protection against risks posed by:

- (a) Power lines;
- (b) Cranes in the area;
- (c) Structures, roof and structure profiles;
- (d) Loose, unsecured material in staging or roof landing area;
- (e) Temporary, unsecured structures in staging or landing area;
- (f) Roof openings and roof access - Cover both to prevent building pressurization and to eliminate fall hazards;
- (g) Unprotected roof edges;
- (h) Pinch, crush, and similar danger points in the load/lift/land sequence;
- (i) Weather conditions;
- (j) Public safety.

(13) Rigging slings and inspection.

(a) Rigging slings for suspended external loads must consist of steel IWRC type slings at all direct connection points to the load being lifted.

(b) Synthetic slings may only be used in the intermediate length of the rigging between the direct steel sling and the cargo hook connection.

(c) The connection between the slings and the helicopter cargo hook must be a single steel rigging ring of either round or oval shape and must be of compatible shape and size to ensure immediate connection and release when the connection between the cargo hook and the ring is terminated by deliberate action of the pilot.

(d) All rigging components and assemblies ((~~shall~~)) must have documented inspections each day before use.

(14) Tag lines.

(a) Tag lines must be used on all external sling loads.

(b) All tag lines ((~~shall~~)) must be equipped at the end with a weight of sufficient size to ((~~assure~~)) ensure that the line will not be induced into the main rotor or tail rotor under any operating condition.

(c) Hand spliced synthetic rope connections are not allowed in any helicopter external load operation.

(d) Tag line length ((~~shall~~)) must be kept shorter than the load line length to ((~~assure~~)) ensure the lines cannot be blown into the main rotors.

(15) Remotely operated cargo hooks.

(a) All cargo hooks ((~~shall~~)) must have the electrical activating device so designed and installed as to prevent inadvertent operation.

(b) In addition, these cargo hooks ((~~shall~~)) must be equipped with an emergency mechanical control for releasing the load.

(c) The hooks ((~~shall~~)) must be tested prior to each day's operation to determine that the release functions properly, both electrically and mechanically.

(16) Personal protective equipment (PPE).

(a) Personal protective equipment for employees receiving the load ((~~shall~~)) must consist of approved eye protection and head protection.

(b) Head protection ((~~shall~~)) must have chin straps to prevent inadvertent loss of head protection during operations.

(c) Loose-fitting clothing likely to flap in the downwash, and thus be snagged on hoist line, ((~~shall~~)) must not be worn.

(17) Housekeeping. Good housekeeping ((~~shall~~)) must be maintained in all helicopter loading and unloading areas.

(18) Hooking and unhooking loads.

(a) When employees are required to perform work under a hovering helicopter, a safe means of access and egress ((~~shall~~)) must be provided for employees to reach the hoist line hook and engage or disengage cargo slings.

(b) Employees ((~~shall~~)) must not perform work under hovering craft except when necessary to hook, unhook or secure loads.

Note: Load shape, orientation, and packaging. Load shapes can affect in-flight handling. Loads can be marked with their required orientation by using north or other marks to match mark to lay-down locations. Remove loose sheeting, tarps, or other wrappings. Loose material can blow around, injure employees, and damage the aircraft if drawn into engine intakes or rotor blades.

(19) Static charge/discharge. The suspended load ((~~shall~~)) must be dissipated with an insulated grounding device before any construction personnel touch the suspended load, or protective rubber gloves ((~~shall~~)) must be worn by all ground personnel touching the suspended load.

Notes: ((*) 1. A static charge can develop on any suspended external sling load. The amount of static electricity that may be present prior to discharging is directly related to the temperature, humidity, altitude and time the load is suspended and/or flown during the external sling load operation.

((*) 2. The load may be equipped with a weighted grounding conductor slung below the load to discharge the static current if the pilot approves this method of discharge.

(20) Approach distance. No unauthorized person shall be allowed to approach within one hundred feet of the helicopter when the rotor blades are turning.

(21) Approaching a running helicopter.

(a) When approaching or exiting a helicopter with blades rotating, all employees ((~~shall~~)) must remain in full position with arms and hands kept low.

(b) Employees ((~~shall~~)) must avoid the area from the cockpit or cabin rearward unless authorized by the helicopter operator to work there.

(c) Personnel ((~~shall~~)) must not approach the area of the tail rotor at any time.

(22) Communications.

(a) There ((~~shall~~)) must be constant reliable communication between the pilot, competent rigger and a designated employee of the ground crew who acts as a signalman during the period of loading and unloading.

(b) The signalman ((~~shall~~)) must be distinctly recognizable from other ground personnel.

(23) Personnel training. The personnel performing the work ((~~shall~~)) must be trained in advance of any helicopter external sling load operation in all facets of the operation. This training can be accomplished in the prelift briefing. Employees ((~~shall~~)) must be made aware of the following:

- (a) Static and discharge procedures;
- (b) Wind/downwash characteristics;
- (c) Noise;

(d) Fall protection to release hook;

(e) Tagline parameters;

(f) Flying objects due to wind;

(g) PPE requirements;

(h) Rigging connections;

(i) Communication/signaling;

(j) Emergency planning.

WSR 20-20-143

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed October 7, 2020, 11:35 a.m., effective November 7, 2020]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of licensing is adopting permanent rules to allow driver training schools to conduct web-based instruction during state of emergencies. WAC 308-108-190 Emergency clause sets forth standards for web-based instruction including waiving the requirement for in-person instruction, outlining requirements for the instruction to be interactive, and ensures that requirements in chapter 46.82 RCW are met. The new language also allows schools to waive the one hour student observation drive.

Citation of Rules Affected by this Order: New WAC 308-108-190.

Statutory Authority for Adoption: RCW 46.82.290.

Adopted under notice filed as WSR 20-18-100 on September 2, 2020.

A final cost-benefit analysis is available by contacting Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98504, phone 360-902-3846, email rulescoordinator@dol.wa.gov, website www.dol.wa.gov/rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Non-governmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 7, 2020

Damon Monroe
Rules Coordinator

NEW SECTION

WAC 308-108-190 Emergency clause. The following rule applies to when instructors or students are not able to convene in person due to a state of emergency issued by the governor under RCW 43.06.210 and 43.06.220. While a state

of emergency remains in effect, the director of licensing may allow driver training schools to:

(1) Offer driver training education through web-based instruction. Any web-based instruction offered under this provision must:

(a) Comply with all requirements in chapter 46.82 RCW, including RCW 46.82.350;

(b) Offer classes remotely with interactive, web-based instruction;

(c) Meet instruction standards set forth in WAC 308-108-150, excluding the requirement to hold classes in person;

(d) Waive requirements to complete the one hour of student driver observation in WAC 308-108-160 (1)(b); and

(e) Allow students to communicate with the instructor in real-time.

(2) When the state of emergency has been rescinded, schools have thirty calendar days to conclude web-based instruction and return to in-person instruction.