

WSR 20-22-014
EXPEDITED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed October 22, 2020, 4:01 p.m.]

Title of Rule and Other Identifying Information: Corrections to website and email address, and removal of the fax number.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Allow for accurate navigation of information provided through our public records WAC.

Reasons Supporting Proposal: To provide the best and most recent information to the public and have our policy match our process.

Statutory Authority for Adoption: RCW 43.101.080, 42.56.040.

Statute Being Implemented: RCW 42.56.040.

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

Name of Agency Personnel Responsible for Drafting and Implementation: Derek Zable, 19010 1st Avenue South, Burien, WA 98148, 206-835-7356; Enforcement: Agency Records Officer, 19010 1st Avenue South, Burien, WA 98148, 206-835-7300.

This notice meets the following criteria to use the expedited adoption process for these rules:

Relates only to internal governmental operations that are not subject to violation by a person.

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Nonpolicy change that allows for better public navigation of agency public records processes.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Derek Zable, Criminal Justice Training Commission, 19010 1st Avenue South, Burien, WA 98148, phone 206-835-7356, email Dzable@cjtc.wa.gov, AND RECEIVED BY February 26, 2021.

October 22, 2020

Derek Zable

Human Resource Manager

AMENDATORY SECTION (Amending WSR 09-13-066, filed 6/16/09, effective 7/17/09)

WAC 139-02-040 Public records officer. (1) The Washington state criminal justice training commission is the state training academy for law enforcement and corrections professionals. The Washington state criminal justice training commission's campus is located in Burien, WA at 19010 1st Avenue South. The Washington state criminal justice training commission has a fiscal office in Lacey, WA located at 3060 Willamette Drive N.E.

(2) Any person wishing to request access to public records of the Washington state criminal justice training commission, or seeking assistance in making such a request, should contact the public records officer of the Washington state criminal justice training commission:

Public Records Officer
 Washington State Criminal Justice Training Commission
 MS: TB-35
 19010 1st Avenue South
 Burien, WA 98148
 Phone: 206-835-7300
 ((Fax: 206-835-7924))
 Email: ((~~publicrecords@cjtc.state.wa.us~~)) Recordsrequests@cjtc.wa.gov

Information is also available at the Washington state criminal justice training commission's website at ((~~www.cjtc.state.wa.us~~)) cjtc.wa.gov.

(3) The public records officer will oversee compliance with the act, but another Washington state criminal justice training commission staff member may process the request. Therefore, these rules will refer to the public records officer or designee. The public records officer or designee and the Washington state criminal justice training commission will provide the fullest assistance to requestors; create and maintain for use by the public and Washington state criminal justice training commission officials an index to public records of the Washington state criminal justice training commission; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Washington state criminal justice training commission.

AMENDATORY SECTION (Amending WSR 09-13-066, filed 6/16/09, effective 7/17/09)

WAC 139-02-050 Availability of public records. (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the Washington state criminal justice training commission; 8:00 a.m. to noon, and 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. Records must be inspected at the offices of the Washington state criminal justice training commission.

(2) **Records index.** An index of public records is available for use by members of the public. The index includes a list of current manuals of the Washington state criminal justice training commission, a current list of laws, other than those listed in chapter 42.56 RCW, that exempts or prohibits

disclosure of specific information or records, and current Washington Administrative Code agency rules. The index may be accessed online at (~~www.cjtc.state.wa.us~~) cjtc.wa.gov or at the Washington state criminal justice training commission in Burien.

(3) **Organization of records.** The Washington state criminal justice training commission maintains its records in a reasonably organized manner and takes reasonable actions to protect records from damage and disorganization. A requestor shall not take Washington state criminal justice training commission records from Washington state criminal justice training commission offices without the permission of the public records officer or designee. Records may be available on the Washington state criminal justice training commission website at (~~www.cjtc.state.wa.us~~) cjtc.wa.gov. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

(4) **Making a request for public records.**

(a) Any person wishing to inspect or obtain copies of public records of the Washington state criminal justice training commission shall make the request in writing using the Washington state criminal justice training commission request form, or by letter, (~~fax~~) or email addressed to the public records officer. Each request should include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and/or an email address; and
- Identification of the public records adequate for the public records officer or designee to locate the records.

(b) If requestors wish to inspect rather than obtain copies of records, they must indicate this preference in their requests. Pursuant to WAC 139-02-070, standard photocopies are provided at fifteen cents per page, plus postage.

WSR 20-22-018

EXPEDITED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed October 23, 2020, 11:23 a.m.]

Title of Rule and Other Identifying Information: WAC 192-500-190 Sibling, 192-510-010 Election, withdrawal, and cancellation of coverage, 192-510-031 What are reportable wages for self-employed persons electing coverage?, 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants?, 192-510-065 When can an employer deduct premiums from employees?, 192-510-080 What are the requirements to be eligible for a conditional premium waiver?, 192-530-060 How can approved voluntary plans end and what happens when they do?, 192-530-070 What is good cause for terminating an approved voluntary plan?, 192-560-020 What is the application process for a small business assistance grant?, 192-610-051 How is the weekly benefit calculated?, 192-700-005 When is an employee entitled to employment restoration after leave ends?, 192-700-010 Can an employer deny employment restoration?, 192-800-010 How will the disqualification periods and penalties be assessed for an employee

who is determined to have committed fraud?, 192-800-020 How will the department differentiate between employers?, 192-800-125 When is a petition for review considered delivered to the department?, and 192-810-030 How do individuals and entities request records from the department?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The employment security department (ESD) paid family and medical leave division is amending sections of Title 192 WAC to remove references to subsections of statute to ensure the accuracy of referenced sections of statute within the title.

Reasons Supporting Proposal: When sections of chapter 50A RCW are amended by the legislature, the subsections within the amended sections are often renumbered. For example, during the 2020 legislative session, SHB 2614 was passed into law. This bill added some definitions to RCW 50A.05.010 affecting the numbering of the definitions within that section. These definitions are referenced in several sections under Title 192 WAC. Once the bill was codified, references to certain definitions within Title 192 WAC were no longer correct. The department is amending sections throughout Title 192 WAC to remove references to RCW subsections so that future statutory changes to chapter 50A RCW do not affect the department's references to the content of chapter 50A RCW.

Statutory Authority for Adoption: RCW 50A.05.060.

Statute Being Implemented: Title 50A RCW.

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

Name of Proponent: ESD, paid family and medical leave program, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: April Amundson, Lacey, Washington, 360-485-2816.

This notice meets the following criteria to use the expedited adoption process for these rules:

Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: Expedited rule making is appropriate because the amendments being made to Title 192 WAC are correcting references to Washington state statutes [statutes] within the title by removing citations to subsections of RCW. These changes will not change the rule's effect, and are intended to ensure that references [references] made to chapter 50A RCW within the title remain accurate.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO April Amundson, ESD, phone 360-485-2816, email rules@esd.wa.gov, online portal https://www.opentownhall.com/portals/289/forum_home?phase=open, AND RECEIVED BY January 4, 2021.

October 23, 2020

April Amundson

Policy and Rules Manager
for Paid Family and Medical Leave

AMENDATORY SECTION (Amending WSR 20-11-033, filed 5/14/20, effective 6/14/20)

WAC 192-500-190 Sibling. "Sibling" means an individual who shares at least one parent, as defined by RCW 50A.05.010(~~((+5))~~), with another individual.

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-510-010 Election, withdrawal, and cancellation of coverage. (1) Self-employed persons as defined in RCW 50A.10.010(~~((+))~~) and federally recognized tribes as defined in RCW 50A.10.020 may elect coverage under Title 50A RCW.

(2) Notice of election of coverage must be submitted to the department online or in another format approved by the department.

(3) Elective coverage begins on the first day of the quarter immediately following the notice of election.

(4) A period of coverage is defined as:

(a) Three years following the first day of elective coverage or any gap in coverage; and

(b) Each subsequent year.

(5) Any self-employed person or federally recognized tribe may file a notice of withdrawal within thirty calendar days after the end of each period of coverage.

(6) A notice of withdrawal from coverage must be submitted to the department online or in another format approved by the department.

(7) Any levy resulting from the department's cancellation of coverage is in addition to the due and unpaid premiums and interest for the remainder of the period of coverage.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-510-031 What are reportable wages for self-employed persons electing coverage? Each quarter, a self-employed individual who has elected coverage under

Title 50A RCW will report to the department wages equal to the combined total of:

(1) The self-employed individual's net income related to their self-employment; and

(2) The gross amount of wages, if any, as defined in RCW 50A.05.010(~~((24))~~), paid to the self-employed individual from the self-employed individual's business entity.

Example 1: A sole-proprietor selling crafts online earns \$3,000 in a quarter and incurred \$2,000 in business-related expenses. The individual would report \$1,000 to the department for that quarter.

Example 2: A member of a limited liability company pays herself a salary in the amount of \$10,000 in a quarter. She also takes a draw from her company in the amount of \$5,000. She would report \$15,000 to the department for that quarter.

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants? (1) To assess premiums and determine eligibility for small business assistance grants, the department must determine the size of each applicable employer. The department will only count the number of in-state employees as defined in RCW 50A.05.010(~~((4))~~) when calculating employer size.

(2) If the department determines that the employer's status has changed as it relates to premium liability, the department will notify the employer. This notification will include the following information:

(a) If the employer was determined to have fifty or more employees for the preceding calendar year, and the employer is then determined to have fewer than fifty employees for the subsequent calendar year, the employer will not be required to pay the employer portion of the premium for the next calendar year; or

(b) If the employer was determined to have fewer than fifty employees for the preceding calendar year, and the employer is then determined to have fifty or more employees for the subsequent calendar year, the employer will be required to pay the employer portion of the premium for the next calendar year.

Example: On September 30, 2018, a business is determined to have had 53 employees on average during the previous four completed quarters, which covers July 1, 2017, through June 30, 2018. The employer is liable for the employer portion of premiums for 2019. On September 30, 2019, the business is determined to have had 48 employees on average during the previous four completed quarters, which covers July 1, 2018, through June 30, 2019. The employer is no longer liable for the employer share of premiums for 2020.

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-510-065 When can an employer deduct premiums from employees? (1) An employer may not

deduct more than the maximum allowable employee share of the premium from wages paid for a pay period.

(2) If an employer fails to deduct the maximum allowable employee share of the premium from wages paid for a pay period, the employer is considered to have elected to pay that portion of the employee share under RCW 50A.10.030 ~~((3)(d))~~ for that pay period. The employer cannot deduct this amount from a future paycheck of the employee for a different pay period.

(3) Subsections (1) and (2) of this section do not apply if an employer was unable to deduct the maximum allowable employee share of the premium for a pay period due to a lack of sufficient employee wages for that pay period.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-510-080 What are the requirements to be eligible for a conditional premium waiver? (1) An employer and employee may be eligible for a conditional waiver of premium payments by satisfying the requirements of RCW 50A.10.040.

Example: A storm hits Washington. An employer in Oregon hires a new employee who lives in Oregon to help with repair work. The employee only works in Washington for the employer for one week and is then laid off. The employer and the employee could submit a conditional premium waiver request for this employee.

(2) A conditional premium waiver is not required for work that is not subject to premiums under WAC 192-510-070 or fails to meet the definition of employment in RCW 50A.05.010 ~~((7)(a))~~.

(3) Any conditional premium waiver request must be submitted to the department online or in another format approved by the department.

(4) As a condition to granting the conditional premium waiver, the employer must file quarterly reports to verify that the employee for whom a conditional premium waiver has been granted is still eligible for the waiver.

(5) Once an employee works eight hundred twenty hours in a period of four consecutive complete calendar quarters localized in Washington for an employer, the conditional premium waiver expires.

(6) The department may require the employer to submit additional documentation as necessary.

(7) If the employee exceeds eight hundred twenty hours in a period of four consecutive complete calendar quarters, the conditional waiver expires and the employer and employee will be responsible for their shares of all premiums that would have been paid during the period of four consecutive complete calendar quarters in which the employee exceeded eight hundred twenty hours had the waiver not been granted. The employer and employee will each receive a notice of premium assessment. Payment of the missed premiums is due on the date provided in the notice. Upon payment of the missed premiums, the employee will be credited for the hours worked and will be eligible for benefits under this chapter as if the premiums were originally paid.

(8) A request for a conditional premium waiver may be denied if the department finds that the employee does not satisfy the requirements of RCW 50A.10.040.

(9) A conditional premium waiver may be canceled if the department finds that the employee no longer satisfies the requirements of RCW 50A.10.040.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-530-060 How can approved voluntary plans end and what happens when they do? (1) An approved voluntary plan ends when either the employer withdraws the plan or the agency terminates the plan for good cause. When a voluntary plan ends either through termination or withdrawal the following requirements must be satisfied:

(a) Benefits and benefit eligibility under a voluntary plan must be maintained for all employees covered by that plan until the effective date of termination or withdrawal.

(b) On the effective date of a voluntary plan termination or withdrawal, employees currently taking family or medical leave under this chapter are entitled to employment restoration under RCW 50A.30.010 ~~((5)(b))~~ until the leave ends.

(c) Employers must notify employees of any plan withdrawal or termination within five business days of notification by the department of the effective date of the termination or withdrawal.

(2) **Withdrawal.** Employers have the right to withdraw a voluntary plan under RCW 50A.30.010 ~~((5)(e))~~ and as provided herein:

(a) If an employer chooses to withdraw a voluntary plan due to a legally required increase in the benefit amounts or any change in the rate of employee premiums, the employer must provide notice to the department at least thirty days prior to the date the change goes into effect, stating the reason for the withdrawal. The plan will be considered withdrawn on the date of the change. Within thirty days of the effective date of withdrawal, the employer must remit to the department any employee wages withheld for the purpose of paying paid family or medical leave benefits that were not used to pay paid family or medical leave benefits.

(b) If the employer chooses to withdraw a voluntary plan for any other reason, the employer must provide notice to the department at least thirty days prior to the end of a calendar quarter. The plan will be considered withdrawn on the first day of the calendar quarter following the properly provided notice. If notice is provided less than thirty days prior to the end of a quarter, the plan will be considered withdrawn on the first day of the second calendar quarter following notice of the withdrawal. Within thirty days of the effective date of withdrawal, the employer must remit to the department any employee wages withheld for the purpose of paying paid family or medical leave benefits that were not used to pay paid family or medical leave benefits.

(c) On the effective date of a voluntary plan withdrawal, for employees currently receiving paid family or medical leave benefits under the voluntary plan, the employer will have the option to:

(i) Continue to pay benefits under the terms of the voluntary plan until the total amount of the benefit is paid or the duration of leave ends, whichever happens first; or

(ii) Immediately pay the employee the maximum remaining amount of benefits available to the employee under the terms of the voluntary plan, regardless of the duration of leave that is actually taken.

(d) Any benefit payments made by an employer to an employee on leave at the time of a voluntary plan withdrawal under (b) of this subsection will be deducted from any moneys owed to the department as described in (a) of this subsection.

(3) **Termination.** The department may terminate an employer's voluntary plan for good cause as defined under WAC 192-530-070 and as provided herein:

(a) If the department terminates an employer's voluntary plan, the department will notify the employer of the effective date of and reason for the termination. The department will calculate the amount owed by the employer and send an invoice for payment. The amount due will consist of all moneys in the plan, including any contributions held in trust as required by RCW 50A.30.050, moneys owed to the voluntary plan by the employer but not yet paid to the plan, and any interest accrued on all these moneys. The amount is due immediately. Any balance owed will begin accruing interest on the thirtieth calendar day after the date of the invoice.

(b) On the effective date of a voluntary plan termination, employees currently receiving paid family or medical leave benefits under the voluntary plan are, if otherwise eligible under the state plan, immediately entitled to benefits from the state plan.

AMENDATORY SECTION (Amending WSR 18-22-080, filed 11/2/18, effective 12/3/18)

WAC 192-530-070 What is good cause for terminating an approved voluntary plan? The department may terminate a voluntary plan if there is a risk that benefits will not be paid or for other good cause shown. Good cause for terminating a voluntary plan includes, but is not limited to, an employer's failure to:

- (1) Pay timely and accurate paid family or medical leave benefits;
- (2) Provide leave for a qualified event;
- (3) Protect the employment and employment benefits of an employee when required;
- (4) Provide complete quarterly reports;
- (5) Report to the department any amendments made to the voluntary plan;
- (6) Adhere to the approved voluntary plan; or
- (7) Adhere to the requirements of Title 50A RCW or chapter 192-500 WAC and thereafter (chapters 192-500 through ~~(192-999))~~ 192-899 WAC).

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-560-020 What is the application process for a small business assistance grant? (1) Applications for small business assistance grants must be submitted online or

in another format approved by the department. To be approved, an application must contain:

(a) The name and Social Security number or individual taxpayer identification number of the employee taking leave;

(b) The amount and type of grant being requested;

(c) An explanation summarizing any personnel or significant additional wage-related costs that were taken because of an employee taking leave; and

(d) Written documentation including, but not limited to, personnel records related to the hiring of a new temporary employee, wage reports, and signed statements, showing the temporary worker hired or significant additional wage-related costs incurred are due to an employee's use of leave.

(2) Incomplete applications will not be reviewed and will not count against an employer's limit of ten applications per year under RCW 50A.24.010~~((4))~~.

(3) The department will deny the application for reasons including, but not limited to, the employer's failure to demonstrate that:

(a) It hired a temporary worker or incurred any significant additional wage-related costs; or

(b) The temporary worker hired or significant additional wage-related cost incurred was not due to an employee's use of family or medical leave.

(4) If a grant application is denied, the application will count against an employer's limit of ten applications per year.

(5) The denial of a grant application is appealable.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-610-051 How is the weekly benefit calculated? After a valid claim year is established, the department will calculate the weekly benefit amount using the following process:

(1) The department will establish the employee's average weekly wage by dividing the total reported wages in the employee's two highest-paid quarters in the qualifying period by twenty-six. If the result is not a multiple of one dollar, the result is rounded down to the next lower multiple of one dollar.

(2) If the employee's average weekly wage is equal to or less than one-half of the state's average weekly wage on the date the calculation is made, the benefit amount is ninety percent of the employee's average weekly wage.

Example 1: For this example, the state's average weekly wage is \$1,400. An employee's average weekly wage is \$600. Since this amount is less than half of the state's average weekly wage, the employee receives 90% of their weekly wage. The weekly benefit is \$540.

(3) If the employee's average weekly wage is more than fifty percent of the state's average weekly wage on the date the calculation is made, the weekly benefit amount is the sum of:

(a) Ninety percent of one-half of the state average weekly wage; and

(b) Fifty percent of the difference between one-half of the state average weekly wage and the employee's average weekly wage.

Example 2: For this example, the state's average weekly wage is \$1,400. An employee's average weekly wage is \$950. Since this number is more than half of the state's average weekly wage, calculate the values for subsection (3)(a) and (b) of this section, then add them together. The first number is equal to 90% of half the state's average weekly wage. Half of \$1,400 is \$700, and 90% of this number makes the first number \$630. The second number is equal to 50% of the amount of the employee's average weekly wage that is higher than half the state's average weekly wage. The amount of the employee's average weekly wage that is higher than half the state's average weekly wage is \$250 (\$950 - \$700). 50% of this amount makes the second number \$125. Add the two numbers together. The weekly benefit is \$755.

(4) If the result of the weekly benefit calculation is not a multiple of one dollar, the result is rounded down to the next lower multiple of one dollar.

(5) All weekly benefit amount calculations are subject to the minimum and maximum weekly benefit amounts under RCW 50A.15.020 ~~((5)(a) and (b))~~.

(6) The weekly benefit amount determined in subsections (1) through (4) of this section is prorated by the number of hours claimed for paid family or medical leave compared to the number of typical workweek hours.

Example 3: An employee has a weekly benefit amount determined to be \$1,000. The employee worked 20 hours each week in the qualifying period. The employee is now full-time and salaried, causing the department to consider that employee's typical workweek hours to be 40. The employee can claim 40 hours on each weekly claim. No proration would occur because the hours claimed compared to the typical workweek hours are the same. As a result, the employee would receive 100% of their weekly benefit amount.

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-700-005 When is an employee entitled to employment restoration after leave ends? (1) Subject to RCW 50A.35.010~~((3))~~, an employee who meets the criteria listed in ~~((RCW 50A.35.010 (6)(a)))~~ that section who takes leave under Title 50A RCW is entitled, on return from the leave, to be restored by the employer to:

(a) The position of employment held by the employee when the leave commenced; or

(b) An equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(i) "Equivalent position" means a position that is nearly identical to the employee's former position as if the employee did not take extended leave. This includes pay, benefits and working conditions, privileges, perks, location, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(ii) "Employment benefits" includes all benefits provided or made available to employees by an employer such as:

- (A) Insurance;
- (B) Paid time off;
- (C) Educational benefits; or

(D) Retirement benefits.

(2) An employee is entitled to such reinstatement even if the employee has been replaced or the employee's position has been restructured to accommodate the employee's absence unless the employer can demonstrate the circumstances fall within WAC 192-700-010(1).

(3) The protections provided in RCW 50A.35.010 and this section apply to the employee beginning with the date the employee starts taking leave.

AMENDATORY SECTION (Amending WSR 20-11-035, filed 5/14/20, effective 6/14/20)

WAC 192-700-010 Can an employer deny employment restoration? (1) An employee is not entitled to rights under RCW 50A.35.010~~((+))~~ if:

(a) An employer exercises its right to deny restoration under RCW 50A.35.010 ~~((6)(b))~~ and the employee has elected not to return to employment after receiving notice under subsection (2) of this section; or

(b) The employer is able to show that an employee would not otherwise have been employed at the time the employee would return to work after the employee's family or medical leave under Title 50A RCW ends.

(2) An employer that chooses to deny restoration under subsection (1)(a) or (b) of this section to an employee on paid medical or family leave must notify the employee in writing as soon as the employer decides to deny restoration. The employer must serve this notice to the employee either in person or by certified mail. The notice must include:

(a) A statement that the employer intends to deny employment restoration when the leave has ended;

(b) The reasons behind the decision to deny restoration;

(c) An explanation that health benefits will still be paid for the duration of the leave; and

(d) The date on which eligibility for employer-provided health benefits ends.

(3) Employers that choose to deny restoration under this section must provide continuation of health benefits as required in RCW 50A.35.020 and WAC 192-700-020.

AMENDATORY SECTION (Amending WSR 19-13-001, filed 6/5/19, effective 7/6/19)

WAC 192-800-010 How will the disqualification periods and penalties be assessed for an employee who is determined to have committed fraud? (1) The department will assess disqualification periods and penalties for each fraud determination individually under RCW ~~((50A.04-045(3)))~~ 50A.15.060.

(2) All disqualifications and penalties in RCW ~~((50A.04-045(3)))~~ 50A.15.060 are in addition to the required repayment of any benefits paid as a result of fraud.

(3) The department will assess the fraud penalties established under RCW ~~((50A.04.045(3)))~~ 50A.15.060 based on the percentage of benefits paid for those weeks in which the fraud occurred or that were paid as a result of fraud. The penalty will not apply to other weeks that may be included in the same eligibility decision.

(4) The penalty amount, if not a multiple of one dollar, is rounded up to the next higher dollar.

AMENDATORY SECTION (Amending WSR 19-16-081, filed 7/31/19, effective 8/31/19)

WAC 192-800-020 How will the department differentiate between employers? (1) The department will determine each entity in possession of its own unified business identifier number as assigned by the state's business licensing service to be an individual employer.

(2) If the department finds an employer acted in such a way to avoid paying the full amount of premiums when due under RCW ((50A.04.080 (3)(b))) 50A.20.030, the employer may be subject to penalties under RCW ((50A.04.090)) 50A.45.010.

(3) If the department finds under subsection (2) of this section that an employer acted in such a way to avoid paying the full amount of premiums when due, the department may require the employer to report under a single unified business identifier selected by the department. In such cases, the department will notify the employer of the determination. Notice will include the department's findings, the unified business identifier under which the employer must report, and the full amount of remaining premiums, if any, due by the responsible employer.

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-800-125 When is a petition for review considered delivered to the department? Delivery under RCW 34.05.542((4)) is made when a copy of the petition for judicial review is received by the Commissioner's Office at 212 Maple Park Avenue S.E., Olympia, WA or received by mail at the Commissioner's Review Office, Post Office Box 9555, Olympia, WA 98507-9555.

AMENDATORY SECTION (Amending WSR 20-01-087, filed 12/12/19, effective 1/12/20)

WAC 192-810-030 How do individuals and entities request records from the department? (1) The department will manage all records requests consistent with the provisions of chapter 42.56 RCW.

(2) Requests for public records shall be submitted to the public records officer. Contact the public records officer at:

Public Records Officer
P.O. Box 9046
Olympia, WA 98507-9046
Phone: 1-844-766-8930
Email: Recordsdisclosure@esd.wa.gov

(3) If an individual requests records or information concerning that individual held by the department under RCW 50A.25.040((4)), those records must be released only to the requesting individual.

(4) If an individual submits a records request and asks that the requested records be sent to a third party directly, the individual must follow the provisions of RCW 50A.25.040((3)).

WSR 20-22-039

EXPEDITED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed October 27, 2020, 2:54 p.m.]

Title of Rule and Other Identifying Information: The department is proposing amendments to WAC 388-434-0005 How often does the department review my eligibility for benefits?

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed housekeeping amendments to WAC 388-434-0005 update outdated terminology without changing the effect of the rule.

Reasons Supporting Proposal: These amendments meet the criteria for expedited adoption as set forth in RCW 34.05.353 (1)(c): "The proposed rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect."

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

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathryn Gussett, P.O. Box 45470, Olympia, WA 98504, 509-290-8435.

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: The amendments update outdated terminology without changing the effect of the rule.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO DSHS Rules Coordinator, Department of Social and Health Services, P.O. Box 45850, Olympia, WA 98504, phone 360-664-6097, fax 360-664-6185, email DSHSRPAURulesCoordinator@dshs.wa.gov, AND RECEIVED BY January 4, 2021.

October 23, 2020
Katherine I. Vasquez
Rules Coordinator

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

WAC 388-434-0005 How often does the department review my eligibility for benefits? (1) If you receive cash assistance, the department reviews your eligibility for assistance at least once every twelve months.

(2) When it is time for your eligibility review, the department requires you to complete a review. We use the information you provide to determine your eligibility for all assistance programs.

(3) If you complete an interview for assistance with a department representative and sign the printed (~~application for benefits (AFB)~~) interactive interview declaration (IID) form, you do not have to complete a separate review form.

(4) For cash assistance, an eligibility review form or the (~~AFB~~) IID must be dated and signed by both (~~husband and wife~~) spouses, or both parents of a child in common when the parents live together.

(5) We may review your eligibility at any time if we decide your circumstances need to be reviewed sooner.

(6) At your review, we look at:

(a) All eligibility requirements under WAC 388-400-0005 through 388-400-0030;

(b) Changes since we last determined your eligibility; and

(c) Changes that are anticipated for the next review period.

(7) You are responsible for attending an interview if one is required under WAC 388-452-0005.

(8) If you do not complete the eligibility review for cash assistance, we consider you to be withdrawing your request for continuing assistance and your cash assistance benefits will end.

(9) We will send you written notice as described under chapter 388-458 WAC before assistance is suspended, terminated, or a benefit error is established as a result of your eligibility review.

(10) When you need a supplemental accommodation under WAC 388-472-0010, we will help you meet the requirements of this section.

WSR 20-22-080
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed November 3, 2020, 8:39 a.m.]

Title of Rule and Other Identifying Information: eRules Phase XII (12): Chapter 296-307 WAC, Safety standards for agriculture, Parts A, I and O.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is part of the division of occupational safety and health (DOSH) eRules project. This rule making will 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 will accomplish 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.

See below for a list of amendments being proposed.

Amended Sections:

WAC 296-307-003 through 296-307-024 (Part A), 296-307-108 through 296-307-11420 (Part I), 296-307-250 through 296-307-27010 (Part O).

- Change "you" to "the employer" or "the operator" where applicable.
- Change "you have" to "the employer has" where applicable.
- Change bullets and other symbols to letters or numbers where applicable.
- Change "shall" to "must" where applicable; or remove the word "shall."
- Remove quotation marks from all defined words.
- Remove words/phrases such as "means," "as defined" or "is an" from all applicable definitions and replace it with a period, making all definitions complete sentences.
- Update titles of WAC sections to remove question format.
- Change "we" and "us" to "the department" where applicable.

WAC 296-307-006 Scope.

- Update to agree with chapter 49.17 RCW as currently written.
- Remove standard industrial classification (SIC) codes, leaving the SIC industry titles.

WAC 296-307-10905 (3)(c)(xv) Training requirements for workers—40 C.F.R., Sec. 170.401.

- Reword for clarity.

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

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

Statute Being Implemented: Chapter 49.17 RCW.

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

Name of Proponent: Labor and industries (L&I), governmental.

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

This notice meets the following criteria to use the expedited adoption process for these rules:

Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of the Reason the Agency Believes the Expedited Rule-Making Process is Appropriate: No requirements are being changed during this rule making, only clarifying language and updating errors, which fits within the parameters of RCW 34.05.353 Expedited rule making.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Chris Miller, L&I, P.O. Box 44610, Olympia, WA 98504-4610, phone 360-902-5516, fax 360-902-5619, email Christopher.miller@Lni.wa.gov, AND RECEIVED BY January 4, 2021.

November 3, 2020
Joel Sacks
Director

AMENDATORY SECTION (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

WAC 296-307-003 ((How is)) Navigating this chapter ((divided?)). The first three digits of the WAC (296) are the title. The second three digits are the chapter (307). The third number group is the section, which may have three or five digits. The fourth and fifth digits are treated as if there were a decimal point after the third digit.

For example: Section 330 of this chapter includes all five-digit sections whose number begins with 330.

Sections may be further divided as indicated below.

Table with 2 columns: Title-Chapter-Section, Subsection, Subdivision, Item. Values include 296-307-330, 296-307-33003, (1), (2), (a), (b), (i), (ii).

Note: The chapter is also divided into "parts" according to subject, to make it easier ((for you)) to find the information ((you need)) needed.

AMENDATORY SECTION (Amending WSR 15-13-097, filed 6/16/15, effective 8/3/15)

WAC 296-307-006 ((What does this chapter cover?))

Scope. (1) Chapter 296-307 WAC applies to all agricultural operations with one or more employees covered by the Washington Industrial Safety and Health Act (WISHA), chapter 49.17 RCW.

(("Agricultural operations")) The term "agriculture" means farming and ((ranching, including)) include, but is not limited to:

- (a) ((Cultivating)) The cultivation and ((tilling)) tillage of the soil;
(b) ((Dairy farming)) Dairying;
(c) ((Producing, cultivating)) The production, cultivation, growing, and harvesting of any agricultural or horticultural commodity;
(d) The raising of livestock, bees, fur-bearing animals, or poultry; and
(e) Any practices performed by a farmer or on a farm, incident to or in connection with such farming operations((s)) including, but not limited to, preparation for market and delivery to:
(i) Storage;
(ii) Market; or
(iii) Carriers for transportation to market. Agricultural operations include, but are not limited to, all employers in one or more of the following ((standard industrial classification (SIC) codes)) industries:

- ((0111 Wheat
0115 Corn
0119 Cash grains not elsewhere classified, barley, peas, lentils, oats, etc.
0133 Sugar cane and sugar beets
0134 Irish potatoes—all potatoes except yams
0139 Field crops—hay, hops, mint, etc.
0161 Vegetables and melons, all inclusive
0171 All berry crops
0172 Grapes
0173 Tree nuts
0175 Deciduous tree fruits
0179 Tree fruits or tree nuts not elsewhere classified
0181 Ornamental floriculture and nursery products
0182 Food crops grown under cover
0191 General farms, primarily crops
0211 Beef cattle feedlots
0212 Beef cattle except feedlots—cattle ranches
0213 Hogs
0214 Sheep and goats
0219 General livestock except dairy and poultry
0241 Dairy farms
0251 Broiler, fryer, and roaster chickens

0252 Chicken eggs
 0253 Turkeys and turkey eggs
 0254 Poultry hatcheries
 0259 Poultry and eggs not elsewhere classified
 0271 Fur-bearing animals and rabbits
 0272 Horses
 0273 Animal aquaculture
 0279 Animal specialties not elsewhere classified
 0291 General farms, primarily livestock and animal specialties
 0711 Soil preparation services
 0721 Crop planting, cultivating, and protecting
 0722 Crop harvesting, primarily by machine
 0751 Livestock services, except veterinary
 0761 Farm labor contractors
 0811 Timber tracts, Christmas tree growing, tree farms
 0831 Forest nurseries
 0851 Forestry services—reforestation

"Agricultural operations" do))

Wheat;

Corn;

Cash grains not elsewhere classified, barley, peas, lentils, oats, etc.;

Sugar cane and sugar beets;

Irish potatoes - All potatoes except yams;

Field crops - Hay, hops, mint, etc.;

Vegetables and melons, all inclusive;

All berry crops;

Grapes;

Tree nuts;

Deciduous tree fruits;

Tree fruits or tree nuts not elsewhere classified;

Ornamental floriculture and nursery products;

Food crops grown under cover;

General farms, primarily crops;

Beef cattle feedlots;

Beef cattle except feedlots - Cattle ranches;

Hogs;

Sheep and goats;

General livestock except dairy and poultry;

Dairy farms;

Broiler, fryer, and roaster chickens;

Chicken eggs;

Turkeys and turkey eggs;

Poultry hatcheries;

Poultry and eggs not elsewhere classified;

Fur-bearing animals and rabbits;

Horses;

Animal aquaculture;

Animal specialties not elsewhere classified;

General farms, primarily livestock and animal specialties;

Soil preparation services;

Crop planting, cultivating, and protecting;

Crop harvesting, primarily by machine;

Livestock services, except veterinary;

Farm labor contractors;

Timber tracts, Christmas tree growing, tree farms;

Forest nurseries;

Forestry services - Reforestation.

The term "agriculture" does not ((include)) mean a farmer's processing for sale or handling for sale a commodity or product grown or produced by a person other than the farmer or the farmer's employees.

(2) Chapter 296-24 WAC does not apply to agricultural operations.

(3) All agricultural operations are also covered by the requirements of chapter 296-62 WAC, General occupational health standards, and chapter 296-901 WAC, Globally harmonized system for hazard communication.

(4) Occasionally, employees engaged in agricultural operations may also be covered by the safety standards of other industries. Following are excerpts from four industry standards that may help you determine if these other standards also apply:

Chapter 296-54 WAC Safety standards—Logging operations

WAC 296-54-501 Scope and application.

This standard establishes safety practices, means, methods and operations for all types of logging, regardless of the end use of the wood. These types of activities include, but are not limited to, pulpwood and timber harvesting and the logging of sawlogs, veneer bolts, poles, pilings and other forest products. The requirements herein contained do not apply to log handling at sawmills, plywood mills, pulp mills or other manufacturing operations governed by their own specific safety standards.

Chapter 296-99 WAC Safety standards for grain handling facilities

WAC 296-99-015 What grain-handling operations does this chapter cover?

(1) WAC 296-99-010 through 296-99-070 apply to:

- Dry grinding operations of soycake;
- Dry grinding operations of soybean;
- Dust pelletizing plants;
- Feed mills;
- Flour mills;
- Flat hogs structures;
- Grain elevators;
- Rice mills; and
- Soybean flaking operations.

(2) WAC 296-99-075, 296-99-080, and 296-99-085 apply only to grain elevators.

(3) Chapter 296-99 WAC does not apply to alfalfa storage or processing operations if they do not use grain products.

Chapter 296-78 WAC Safety standards for sawmills and woodworking operations

WAC 296-78-500 Foreword.

The chapter 296-78 WAC shall apply to and include safety requirements for all installations where the primary manufacturing of wood building products takes place. The installations may be a permanent fixed establishment or a

portable operation. These operations shall include but are not limited to log and lumber handling, sawing, trimming and planing, plywood or veneer manufacturing, canting operations, waste or residual handling, operation of dry kilns, finishing, shipping, storage, yard and yard equipment, and for power tools and affiliated equipment used in connection with such operation. WAC 296-78-450 shall apply to shake and shingle manufacturing. The provisions of WAC 296-78-500 through 296-78-84011 are also applicable in shake and shingle manufacturing except in instances of conflict with the requirements of WAC 296-78-705.

Chapter 296-155 WAC Safety standards for construction work

WAC 296-155-005 Purpose and scope.

The standards included in this chapter apply throughout the state of Washington, to any and all work places subject to the Washington Industrial Safety and Health Act (chapter 49.17 RCW), where construction, alteration, demolition, related inspection, and/or maintenance and repair work, including painting and decorating, is performed. These standards are minimum safety requirements with which all industries must comply when engaged in the above listed types of work.

(5) If rules in this chapter conflict with rules in another chapter of Title 296 WAC, this chapter prevails.

AMENDATORY SECTION (Amending WSR 03-10-068, filed 5/6/03, effective 8/1/03)

WAC 296-307-009 (~~What~~) Definitions that apply to this chapter(~~?~~) (~~("Approved" means)~~) **Approved.** Approved by the director of the department of labor and industries, or by another organization designated by the department. Also means listed or approved by a nationally recognized testing laboratory.

(~~("Authorized person" means)~~) **Authorized person.** Someone you have approved to perform specific duties or to be at a specific location on the job site.

(~~("Biological agents" means)~~) **Biological agents.** Organisms or their by-products.

(~~("Chemical agents (airborne or contact)" means)~~) **Chemical agents (airborne or contact).** A chemical agent is any of the following:

(~~(*)~~) (a) Airborne chemical agent which is any of the following:

(~~(-)~~) (i) Dust (~~(-)~~). Solid particles suspended in air, generated by handling, drilling, crushing, grinding, rapid impact, detonation, or decrepitation of organic or inorganic materials such as rock, ore, metal, coal, wood, grain, etc.

(~~(-)~~) (ii) Fume (~~(-)~~). Solid particles suspended in air, generated by condensation from the gaseous state, generally after volatilization from molten metals, etc., and often accompanied by a chemical reaction such as oxidation.

(~~(-)~~) (iii) Gas (~~(-)~~). A normally formless fluid that can be changed to the liquid or solid state by the effect of increased pressure or decreased temperature or both.

(~~(-)~~) (iv) Mist (~~(-)~~). Liquid droplets suspended in air, generated by condensation from the gaseous to the liquid state or by breaking up a liquid into a dispersed state, such as by splashing, foaming or atomizing.

(~~(-)~~) (v) Vapor (~~(-)~~). The gaseous form of a substance that is normally in the solid or liquid state.

(~~(*)~~) (b) Contact chemical agent which is any of the following:

(~~(-)~~) (i) Corrosives (~~(-)~~). Substances that in contact with living tissue cause destruction of the tissue by chemical action.

(~~(-)~~) (ii) Irritants (~~(-)~~). Substances that on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(~~(-)~~) (iii) Toxicants (~~(-)~~). Substances that have the inherent capacity to produce personal injury or illness to individuals by absorption through any body surface.

(~~("Department" means)~~) **Department.** The department of labor and industries. When this chapter refers to "we" or "us," it means labor and industries staff responsible for enforcing the Washington Industrial Safety and Health Act (WISHA).

(~~("Director" means)~~) **Director.** The director of the department of labor and industries, or a designated representative.

(~~("Employee" means)~~) **Employee.** Someone providing personal labor in the business of the employer, including anyone providing personal labor under an independent contract.

(~~("Employer" means)~~) **Employer.** A business entity having one or more employees. Also, any person, partnership, or business entity with no employees but having industrial insurance coverage is both an employer and an employee(~~(-)~~ When this chapter refers to "you," it means the employer or a designated representative).

(~~("Hazard" means)~~) **Hazard.** A condition that can cause injury, death, or occupational disease.

(~~("Listed" means)~~) **Listed.** Listed by a nationally recognized testing laboratory.

(~~("Must" means)~~) **Must.** Mandatory.

(~~(=)~~) **Nationally recognized testing laboratory(~~(=)~~).** See 29 C.F.R. 1910.7 (federal OSHA requirements).

(~~(=)~~) **Pesticide(~~(=)~~ means):**

(~~(*)~~) (a) Any substance intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

(~~(*)~~) (b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(~~(*)~~) (c) Any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own, intended to be used with any pesticide as an aid to its application or effect, and sold in a package or container separate from that of the pesticide with which it is to be used.

(~~("Safety factor" means)~~) **Safety factor.** The ratio of the ultimate breaking strength of a piece of material or equipment to the actual working stress or safe load when in use.

(~~("Should" or "may" means)~~) **Should or may.** Recommended.

~~("Standard safeguard" means)~~ **Standard safeguard.** A device designed and constructed to remove a hazard related to the machine, appliance, tool, building, or equipment to which it is attached.

~~("Working day,")~~ **Working day.** For appeals and accident reporting, means a calendar day, except Saturdays, Sundays, and legal holidays as defined by RCW 1.16.050. To compute the time within which an act is to be completed, exclude the first working day and include the last.

You. When this chapter refers to "you," it means the employer or a designated representative.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-012 ~~((What does it mean when))~~ **Equipment** ~~((is))~~ **approved by a nonstate organization** ~~((?)).~~ Whenever the department requires ~~((that you))~~ **the employer** to have equipment or processes approved by an organization such as the Underwriters Laboratories (UL), the Bureau of Mines (MSHA), or the National Institute for Occupational Safety and Health (NIOSH), the approval of that organization is considered evidence of your compliance.

AMENDATORY SECTION (Amending WSR 15-11-066, filed 5/19/15, effective 7/1/15)

WAC 296-307-018 ~~((What are the employer's))~~ **Employer responsibilities** ~~((?)).~~

~~((You must:))~~

(1) **The employer must** provide a safe and healthful working environment.

(2) **The employer must** ensure that employees do not use defective or unsafe tools and equipment, including tools and equipment that may be furnished by the employee.

(3) **The employer must** implement a written accident prevention program as required by these standards.

(4) **The employer must** implement a hazard communication program as required by WAC 296-307-550.

(5) **The employer must** establish a system for complying with chapter 296-27 WAC for recording work-related injuries and illnesses and reporting to the department any work-related fatality, inpatient hospitalization, amputation, or loss of an eye. In addition, ~~((you))~~ **the employer** must also report to the department within eight hours after any work-related incident that results in injury or illness from acute pesticide exposure.

(6) **The employer must** follow the requirements for accident investigations in WAC 296-800-320.

(7) **The employer must** provide safety education and training programs.

(8) **The employer must** implement the requirements of WAC 296-62-074 through 296-62-07451 to ensure the safety of employees who are exposed to cadmium in the workplace.

(9) **The employer must** implement the requirements of WAC 296-307-642 through 296-307-656 to ensure the safety of employees who are exposed to confined spaces in the workplace.

(10) **The employer must** control chemical agents.

~~((You must:))~~

~~(*)~~ (a) **The employer must** control chemical agents in a manner that they will not present a hazard to ~~((you))~~ workers; or

~~(*)~~ (b) **The employer must** protect workers from the hazard of contact with, or exposure to, chemical agents.

Reference: Pesticides are chemical agents and are covered by chapter 296-307 WAC Part I, Pesticides (worker protection standard). Pesticides may also be covered by WAC 296-307-594, Respirators.

(11) Protect employees from biological agents. ~~((You must:))~~

~~(*)~~ **The employer must** protect employees from exposure to hazardous concentrations of biological agents that may result from processing, handling or using materials or waste.

Note: Examples of biological agents include:

~~((-))~~ 1. Animals or animal waste.

~~((-))~~ 2. Body fluids.

~~((-))~~ 3. Biological agents in a medical research lab.

~~((-))~~ 4. Mold or mildew.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-021 ~~((What are the employee's))~~ **Employee responsibilities** ~~((?)).~~ (1) Employees must cooperate with ~~((you))~~ **the employer** and other employees in efforts to eliminate accidents.

(2) Employees must be informed of and observe all safe practices.

(3) Employees must notify ~~((you))~~ **the employer** of unsafe conditions of equipment or workplaces.

(4) Employees must use all required safety devices and protective equipment.

(5) Employees must not willfully damage personal protective equipment.

(6) Each employee must promptly report any job-related injury or illness to his or her immediate supervisor, regardless of the degree of severity.

(7) Employees must not engage in any activity unrelated to work that may cause injury to other employees during the course of performing work assignments.

(8) Employees must attend any required training and/or orientation programs designed to increase their competency in occupational safety and health.

(9) Employees must not report to work under the influence of alcohol or controlled substances. Alcohol or controlled substances must not be brought on the worksite.

AMENDATORY SECTION (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

WAC 296-307-024 ~~((How does an employer apply))~~ **Applying for a variance** ~~((?)).~~ (1) If ~~((you find))~~ **the employer finds** that it is impractical ~~((for you))~~ to comply with specific requirements of this standard, ~~((we))~~ **the department** may permit a variation from the requirements. However, ~~((you))~~ **the employer** must still provide equal protection by substitute means and comply with the requirements of chapter 49.17 RCW and chapter 296-350 WAC, variances.

(2) On the variance application (~~(you)~~) the employer must certify that (~~(you have posted)~~) a copy of the written application was posted in a place reasonably accessible to (~~(your)~~) employees. (~~(You)~~) The employer must also mail a copy of the application to any authorized employee representative. The notice must advise employees of their right to request (~~(us)~~) the department to conduct a hearing on the variance application. (~~(You)~~) The employer must notify employees before you apply.

Note: To request a permanent or temporary variance, (~~(you may)~~) write to: Department of Labor and Industries, WISHA Services, P.O. Box 44648, Olympia, WA 98504-4648. (~~(We)~~) The department will mail (~~(you)~~) an application form and instruction sheet. (~~(We)~~) The department will also send a copy of chapter 296-350 WAC, Variances, if (~~(you request it)~~) requested.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-10820 Definitions—40 C.F.R., Sec. 170.305. Terms used in this part have the same meanings they have in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, the following terms, when used in this part, (~~(shall)~~) have the following meanings:

(~~("Agricultural emergency" means)~~) **Agricultural emergency.** For agricultural emergencies see WAC 296-307-11410 (3)(a).

(~~("Agricultural employer" means)~~) **Agricultural employer.** Any person who is an owner of, or is responsible for the management or condition of, an agricultural establishment, and who employs any worker or handler.

(~~("Agricultural establishment" means)~~) **Agricultural establishment.** Any farm, forest operation, or nursery engaged in the outdoor or enclosed space production of agricultural plants. An establishment that is not primarily agricultural is an agricultural establishment if it produces agricultural plants for transplant or use (in part or their entirety) in another location instead of purchasing the agricultural plants.

(~~("Agricultural plant" means)~~) **Agricultural plant.** Any plant, or part thereof, grown, maintained, or otherwise produced for commercial purposes, including growing, maintaining or otherwise producing plants for sale or trade, for research or experimental purposes, or for use in part or their entirety in another location. Agricultural plant includes, but is not limited to, grains; fruits and vegetables; wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants; and turf grass produced for sod. Agricultural plant does not include pasture or rangeland used for grazing.

(~~("Application exclusion zone" means)~~) **Application exclusion zone.** The area surrounding the application equipment that must be free of all persons other than appropriately trained and equipped handlers during pesticide applications.

(~~("Chemigation" means)~~) **Chemigation.** The application of pesticides through irrigation systems.

(~~("Closed system" means)~~) **Closed system.** An engineering control used while removing pesticide contents from its original container, preventing the pesticide from contacting handlers. It is used to protect handlers or other persons from pesticide exposure hazards when mixing and loading

pesticides. When used properly and as intended, water-soluble packaging may qualify as a type of closed system.

(~~("Commercial pesticide handler employer" means)~~) **Commercial pesticide handler employer.** Any person, other than an agricultural employer, who employs any handler to perform handler activities on an agricultural establishment. A labor contractor who does not provide pesticide application services or supervise the performance of handler activities, but merely employs laborers who perform handler activities at the direction of an agricultural or handler employer, is not a commercial pesticide handler employer.

(~~("Commercial pesticide handling establishment" means)~~) **Commercial pesticide handling establishment.** Any enterprise, other than an agricultural establishment, that provides pesticide handler or crop advising services to agricultural establishments.

(~~("Crop advisor" means)~~) **Crop advisor.** Any person who is assessing pest numbers, damage, pesticide distribution, or the status or requirements of agricultural plants and who holds a current Washington state department of agriculture commercial consultant license in the agricultural areas in which they are advising. The term does not include any person who is performing hand labor tasks.

(~~("Designated representative" means)~~) **Designated representative.** Any persons designated in writing by a worker or handler to exercise a right of access on behalf of the worker or handler to request and obtain a copy of the pesticide application and hazard information required by WAC 296-307-10825(8) in accordance with WAC 296-307-10830 (2).

(~~("Early entry" means)~~) **Early entry.** Entry by a worker into a treated area on the agricultural establishment after a pesticide application is complete, but before any restricted-entry interval for the pesticide has expired.

(~~("Employ" means)~~) **Employ.** To obtain, directly or through a labor contractor, the services of a person in exchange for any type of compensation including a salary, wages, or piece-rate wages, without regard to who may pay or who may receive the salary or wages. It includes obtaining the services of a self-employed person, an independent contractor, or a person compensated by a third party, except that it does not include an agricultural employer obtaining the services of a handler through a commercial pesticide handler employer or a commercial pesticide handling establishment.

(~~("Enclosed cab" means)~~) **Enclosed cab.** A cab with a nonporous barrier that totally surrounds the occupant(s) of the cab and prevents contact with pesticides that are being applied outside of the cab. Refer to WAC 296-307-11420(5).

(~~("Enclosed space production" means)~~) **Enclosed space production.** Production of an agricultural plant indoors or in a structure or space that is covered in whole or in part by any nonporous covering or that is covered and enclosed in a way that would obstruct natural air flow, and that is large enough to permit a person to enter. Structures, with a covering that do not have any walls, such as shade houses made of fencing or fabric to provide shade on plants that do not obstruct airflow are not considered enclosed spaces.

(~~("Fumigant" means)~~) **Fumigant.** Any pesticide product that is a vapor or gas, or forms a vapor or gas upon appli-

cation, and whose pesticidal action is achieved through the gaseous or vapor state.

~~("Hand labor" means)~~ **Hand labor.** Any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) and other surfaces that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. Hand labor does not include performing crop advisor tasks or operating, moving, or repairing irrigation or watering equipment. For irrigation or watering equipment used during chemigation see handler activities.

~~("Handler" means)~~ **Handler.** Any person, including a self-employed person, who is employed by an agricultural employer or commercial pesticide handler employer and performs any of the following activities:

(*) (a) Mixing, loading, or applying pesticides.

(*) (b) Disposing of pesticides.

(*) (c) Handling opened containers of pesticides, emptying, triple-rinsing, or cleaning pesticide containers according to pesticide product labeling instructions, or disposing of pesticide containers that have not been cleaned. The term does not include any person who is only handling unopened pesticide containers or pesticide containers that have been emptied or cleaned according to pesticide product labeling instructions.

(*) (d) Acting as a flagger.

(*) (e) Cleaning, adjusting, handling, or repairing the parts of mixing, loading, or application equipment that may contain pesticide residues, including irrigation equipment used for chemigation.

(*) (f) Assisting with the application of pesticides.

(*) (g) Entering an enclosed space after the application of a pesticide and before the inhalation exposure level listed in the labeling has been reached or one of the ventilation criteria established in WAC 296-307-10915 (2)(c) or the labeling has been met to operate ventilation equipment, monitor air levels, or adjust or remove coverings used in fumigation.

(*) (h) Entering a treated area outdoors after application of any soil fumigant during the labeling-specified entry-restricted period to adjust or remove coverings used in fumigation.

(*) (i) Performing tasks as a crop advisor during any pesticide application or restricted-entry interval, or before the inhalation exposure level listed in the pesticide product labeling has been reached or one of the ventilation criteria established in WAC 296-307-10915 (2)(c) or the pesticide product labeling has been met, and either inhalation exposure levels are below PELs in WAC 296-307-624, Part Y-6 Respiratory hazards, or respiratory protection is provided and worn according to requirements in WAC 296-307-594, Part Y-5.

~~("Handler employer" means)~~ **Handler employer.** Any person who is self-employed as a handler or who employs any handler.

~~("Immediate family")~~ **Immediate family.** Includes only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, and sisters.

~~("Labor contractor" means)~~ **Labor contractor.** A person, other than a commercial pesticide handler employer, who employs workers or handlers to perform tasks on an agricultural establishment for an agricultural employer or a commercial pesticide handler employer.

~~("Outdoor production" means)~~ **Outdoor production.** Production of an agricultural plant in an outside area that is not enclosed or covered in any way by nonporous material. This includes shade houses without sides.

~~("Owner" means)~~ **Owner.** Any person who has a present possessory interest (e.g., fee, leasehold, rental, or other) in an agricultural establishment. A person who has both leased such agricultural establishment to another person and granted that same person the right and full authority to manage and govern the use of such agricultural establishment is not an owner for purposes of this chapter.

~~("Personal protective equipment" means)~~ **Personal protective equipment.** Devices, appliances or apparel that are worn or used to protect the body from exposure to safety and health hazards. PPE that protects against chemical hazards such as pesticides or pesticide residues including, but not limited to: Coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respirators, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

~~("Restricted entry interval (REI)" means)~~ **Restricted-entry interval (REI).** The time after the end of a pesticide application during which entry into the treated area is restricted.

~~("Safety data sheet (SDS)" means)~~ **Safety data sheet (SDS).** Written or printed material concerning a hazardous chemical that is prepared in accordance with WAC 296-901-14014.

~~("Treated area" means)~~ **Treated area.** Any area to which a pesticide is being directed or has been directed.

~~("Use," as in "to use a pesticide" means)~~ **Use, to use a pesticide.** Any of the following:

(*) (a) Preapplication activities including, but not limited to:

(-) (i) Arranging for the application of the pesticide.

(-) (ii) Mixing and loading the pesticide.

(-) (iii) Making necessary preparations for the application of the pesticide, including responsibilities related to worker notification, training of workers or handlers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective equipment, providing emergency assistance, and heat stress management.

Note: Additional requirements in WAC 296-307-097 Outdoor heat exposure, may apply between May 1st and September 30th of each year. See Part G-1.

(*) (b) Application of the pesticide.

(*) (c) Postapplication activities intended to reduce the risks of illness and injury resulting from handlers' and workers' occupational exposures to pesticide residues during and after the restricted-entry interval, including responsibilities related to worker notification, training of workers or early entry workers, providing decontamination supplies, providing pesticide safety information and pesticide application and hazard information, use and care of personal protective

equipment, providing emergency assistance, and heat stress management.

(~~(A)~~) (~~(d)~~) Other pesticide-related activities including, but not limited to, transporting or storing pesticides that have been opened, cleaning equipment, and disposing of excess pesticides, spray mix, equipment wash waters, pesticide containers, and other pesticide-containing materials.

(~~("Worker" means)~~) **Worker.** Any person, including a self-employed person, who is employed and performs activities directly relating to the production of agricultural plants on an agricultural establishment.

(~~("Worker housing area" means)~~) **Worker housing area.** Any place or area of land on or near an agricultural establishment where housing or space for housing is provided for workers or handlers by an agricultural employer, owner, labor contractor, or any other person responsible for the recruitment or employment of agricultural workers.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-10825 Agricultural employer duties—40 C.F.R., Sec. 170.309. Agricultural employers must:

(1) Ensure that any pesticide is used in a manner consistent with the pesticide product labeling, including the requirements of this part, when applied on the agricultural establishment.

(2) Ensure that each worker and handler subject to this part receives the protections required by this part.

(3) Ensure that any handler and any early entry worker is at least eighteen years old.

(4) Provide to each person, including labor contractors, who supervises any workers or handlers, information and directions sufficient to ensure that each worker and handler receives the protections required by this part. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this part.

(5) Require each person, including labor contractors, who supervises any workers or handlers, to provide sufficient information and directions to each worker and handler to ensure that they can comply with the provisions of this part.

(6) Provide emergency assistance in accordance with this subsection. If there is reason to believe that a worker or handler has experienced a potential pesticide exposure during his or her employment on the agricultural establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within seventy-two hours after his or her employment on the agricultural establishment, and needs emergency medical treatment, the agricultural employer must do all of the following promptly after learning of the possible poisoning or injury:

(a) Make available to that person prompt transportation from the agricultural establishment, including any worker housing area on the establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

(b) Provide all of the following information to that person or to the treating medical personnel:

(i) Copies of the applicable safety data sheet(s)(SDS) and the product name(s), EPA registration number(s) and active ingredient(s) for each pesticide product to which the person may have been exposed.

(ii) The circumstances of application or use of the pesticide on the agricultural establishment.

(iii) The circumstances that could have resulted in exposure to the pesticide.

(iv) Antidote, first aid and other medical information from the product labeling.

(7) Ensure that workers or other persons employed or supervised by the agricultural establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a handler under WAC 296-307-11205. Before allowing any person not directly employed or supervised by the agricultural establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the agricultural employer (~~(shall)~~) **must** assure that pesticide residues have been removed from the equipment if feasible and must provide all of the following information to such person:

(a) Pesticide application equipment may be contaminated with pesticides.

(b) The potentially harmful effects of exposure to pesticides.

(c) Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues.

(d) Personal hygiene practices and decontamination procedures for preventing pesticide exposures and removing pesticide residues.

(8) Display, maintain, and provide access to pesticide safety information and pesticide application and hazard information that is legible and in accordance with WAC 296-307-10830. If workers or handlers are on the establishment and within the last thirty days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect on the establishment.

(9) Ensure that before a handler uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

(10) Ensure that before each day of use, equipment used for mixing, loading, transferring, or applying pesticides is inspected for leaks, clogging, and worn or damaged parts, and any damaged equipment is repaired or replaced.

(11) The agricultural employer must notify a commercial pesticide handler employer (CPHER) of any specific locations and descriptions of those treated areas and any restrictions on entering the treated areas with restricted-entry intervals (REIs) in effect whenever:

(a) A handler employed by a CIPHER will be on the agricultural establishment; and

(b) The CIPHER handler may be in or walk within a quarter mile of any pesticide treated area with restricted-entry interval (REI) in effect.

(12) Ensure that workers do not enter any area on the agricultural establishment where a pesticide has been applied until the applicable pesticide application and hazard information for each pesticide product applied to that area is displayed in accordance with WAC 296-307-10830(2) and until after the restricted-entry interval has expired and all treated

area warning signs have been removed or covered, except for entry permitted by WAC 296-307-11410.

(13) Provide any records or other information required by this section for inspection and copying upon request by an employee of EPA, or any duly authorized representatives of the Washington state department of agriculture or department of labor and industries.

(14) Pesticide safety, application, and hazard information must remain legible at all times when the information is required to be displayed. This information must be in accordance with WAC 296-307-10830.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-10835 Commercial pesticide handler employer duties—40 C.F.R., Sec. 170.313. Commercial pesticide handler employers must:

(1) Ensure that any pesticide is used in a manner consistent with the pesticide product labeling, including the requirements of this part, when applied on an agricultural establishment by a handler employed by the commercial pesticide handling establishment.

(2) Ensure each handler employed by the commercial pesticide handling establishment and subject to this part receives the protections required by this part.

(3) Ensure that any handler employed by the commercial pesticide handling establishment is at least eighteen years old.

(4) Provide to each person, including labor contractors, who supervises any handlers employed by the commercial pesticide handling establishment, information and directions sufficient to ensure that each handler receives the protections required by this part. Such information and directions must specify the tasks for which the supervisor is responsible in order to comply with the provisions of this part.

(5) Require each person, including labor contractors, who supervises any handlers employed by the commercial pesticide handling establishment, to provide sufficient information and directions to each handler to ensure that the handler can comply with the provisions of this part.

(6) Ensure that before any handler employed by the commercial pesticide handling establishment uses any equipment for mixing, loading, transferring, or applying pesticides, the handler is instructed in the safe operation of such equipment.

(7) Ensure that, before each day of use, equipment used by their employees for mixing, loading, transferring, or applying pesticides is inspected for leaks, obstructions, and worn or damaged parts, and any damaged equipment is repaired or is replaced.

(8) Ensure that whenever a handler who is employed by a commercial pesticide handling establishment will be on an agricultural establishment, the handler is provided information about, or is aware of, the specific location and description of any treated areas where a restricted-entry interval is in effect, and the restrictions on entering those areas.

(9) Provide the agricultural employer all of the following information before the application of any pesticide on an agricultural establishment:

(a) Specific location(s) and description of the area(s) to be treated.

(b) The date(s) and start and estimated end times of application.

(c) Product name, EPA registration number, and active ingredient(s).

(d) The labeling-specified restricted-entry interval applicable for the application.

(e) Whether posting, oral notification or both are required under WAC 296-307-10925.

(f) Any restrictions or use directions on the pesticide product labeling that must be followed for protection of workers, handlers, or other persons during or after application.

(10) If there are any changes to the information provided in subsection (9)(a), (d), (e), and (f) of this section or if the start time for the application will be earlier than originally forecasted or scheduled, ensure that the agricultural employer is provided updated information prior to the application. If there are any changes to any other information provided pursuant to subsection (9) of this section, the commercial pesticide handler employer must provide updated information to the agricultural employer within two hours after completing the application. Changes to the estimated application end time of less than one hour need not be reported to the agricultural employer.

(11) Provide emergency assistance in accordance with this subsection. If there is reason to believe that a handler employed by the commercial pesticide handling establishment has experienced a potential pesticide exposure during his or her employment by the commercial pesticide handling establishment or shows symptoms similar to those associated with acute exposure to pesticides during or within seventy-two hours after his or her employment by the commercial pesticide handling establishment, and needs emergency medical treatment, the commercial pesticide handler employer must do all of the following promptly after learning of the possible poisoning or injury:

(a) Make available to that person prompt transportation from the commercial pesticide handling establishment, or any agricultural establishment on which that handler may be working on behalf of the commercial pesticide handling establishment, to an operating medical care facility capable of providing emergency medical treatment to a person exposed to pesticides.

(b) Provide all of the following information to the treating medical personnel:

(i) Copies of the applicable safety data sheet(s)(SDS) and the product name(s), EPA registration number(s) and active ingredient(s) for each pesticide product to which the person may have been exposed.

(ii) The circumstances of application or use of the pesticide.

(iii) The circumstances that could have resulted in exposure to the pesticide.

(iv) Antidote, first aid and other medical information from the product labeling.

(12) Ensure that persons directly employed by the commercial pesticide handling establishment do not clean, repair, or adjust pesticide application equipment, unless trained as a

handler under WAC 296-307-11205. Before allowing any person not directly employed by the commercial pesticide handling establishment to clean, repair, or adjust equipment that has been used to mix, load, transfer, or apply pesticides, the commercial pesticide handler employer ((shall)) must assure that pesticide residues have been removed from the equipment if feasible and must provide all of the following information to such persons:

(a) Notice that the pesticide application equipment may be contaminated with pesticides.

(b) The potentially harmful effects of exposure to pesticides.

(c) Procedures for handling pesticide application equipment and for limiting exposure to pesticide residues.

(d) Personal hygiene practices and decontamination procedures for preventing pesticide exposures and removing pesticide residues.

(13) Provide any records or other information required by this part for inspection and copying upon request by an employee of EPA or any duly authorized representative of the Washington state department of agriculture or the department of labor and industries.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-10905 Training requirements for workers—40 C.F.R., Sec. 170.401. (1) General requirement. Before any worker performs any task in a treated area on an agricultural establishment where within the last thirty days a pesticide product has been used or a restricted-entry interval for such pesticide has been in effect, the agricultural employer must ensure that each worker has been trained in accordance with this section within the last twelve months, except as provided in subsection (2) of this section.

Note: In addition to the training required by this section, the agricultural employer ((shall)) must assure without exception, that all employees are trained in accordance with chapter 296-901 WAC, Globally harmonized system for hazard communication.

(2) Exceptions. The following workers need not be trained under this section:

(a) A worker who is currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(b) A worker who has satisfied the handler training requirements in WAC 296-307-11205.

(c) A worker who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230, provided, that a requirement for such certification or licensing is pesticide safety training that includes all the topics in WAC 296-307-11205 (3)(b) or (c) as applicable depending on the date of training.

(3) Training programs.

(a) Pesticide safety training must be presented to workers either orally from written materials or audio-visually, at a location that is reasonably free from distraction and conducive to training. All training materials must be EPA-approved. The training must be presented in a manner that the workers can understand, such as through a translator. The training must be conducted by a person who meets the worker trainer requirements of (d) of this subsection, and who must

be present during the entire training program and must respond to workers' questions.

(b) The training must include, at a minimum, all of the following topics:

(i) Where and in what form pesticides may be encountered during work activities.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes through which pesticides can enter the body.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures, including emergency eye flushing techniques.

(viii) Hazards from chemigation and drift.

(ix) Hazards from pesticide residues on clothing.

(x) Warnings about taking pesticides or pesticide containers home.

(xi) Requirements of this section designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts.

(c) EPA intends to make available to the public training materials that may be used to conduct training conforming to the requirements of this section. Within one hundred eighty-one days after a notice of availability of such training materials appears in the *Federal Register*, training programs required under this section must include, at a minimum, all of the topics listed in (c)(i) through (xxiii) of this subsection instead of the topics listed in (b)(i) through (xi) of this subsection.

(i) The responsibility of agricultural employers to provide workers and handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes ensuring workers and handlers have been trained on pesticide safety, providing pesticide safety and application and hazard information, decontamination supplies and emergency medical assistance, and notifying workers of restrictions during applications and on entering pesticide treated areas. A worker or handler may designate in writing a representative to request access to pesticide application and hazard information.

(ii) How to recognize and understand the meaning of the posted warning signs used for notifying workers of restrictions on entering pesticide treated areas on the establishment.

(iii) How to follow directions and/or signs about keeping out of pesticide treated areas subject to a restricted-entry interval and application exclusion zones.

(iv) Where and in what forms pesticides may be encountered during work activities, and potential sources of pesticide exposure on the agricultural establishment. This includes exposure to pesticide residues that may be on or in plants, soil, tractors, application and chemigation equipment, or used personal protective equipment, and that pesticides

may drift through the air from nearby applications or be in irrigation water.

(v) Potential hazards from toxicity and exposure that pesticides present to workers and their families, including acute and chronic effects, delayed effects, and sensitization.

(vi) Routes through which pesticides can enter the body.

(vii) Signs and symptoms of common types of pesticide poisoning.

(viii) Emergency first aid for pesticide injuries or poisonings.

(ix) Routine and emergency decontamination procedures, including emergency eye flushing techniques, and if pesticides are spilled or sprayed on the body to use decontamination supplies to wash immediately or rinse off in the nearest clean water, including springs, streams, lakes or other sources if more readily available than decontamination supplies, and as soon as possible, wash or shower with soap and water, shampoo hair, and change into clean clothes.

(x) How and when to obtain emergency medical care.

(xi) When working in pesticide treated areas, wear work clothing that protects the body from pesticide residues and wash hands before eating, drinking, using chewing gum or tobacco, or using the toilet.

Note: Consider including other activities that could be a route of exposure such as using a phone or cell phone, or tablet, applying makeup, and getting into a personal vehicle.

(xii) Wash or shower with soap and water, shampoo hair, and change into clean clothes as soon as possible after working in pesticide treated areas.

(xiii) Potential hazards from pesticide residues on clothing.

(xiv) Wash work clothes before wearing them again and wash them separately from other clothes.

(xv) Do not take pesticides or pesticide containers used at work ~~(to your)~~ home.

(xvi) Safety data sheets (SDSs) provide hazard, emergency medical treatment and other information about the pesticides used on the establishment they may come in contact with. The responsibility of agricultural employers to do all of the following:

(A) Display safety data sheets (SDSs) for all pesticides used on the establishment.

(B) Provide workers and handlers information about the location of the safety data sheets (SDSs) on the establishment.

(C) Provide workers and handlers unimpeded access to safety data sheets (SDSs) during normal work hours.

(xvii) This section prohibits agricultural employers from allowing or directing any worker to mix, load or apply pesticides or assist in the application of pesticides unless the worker has been trained as a handler.

(xviii) The responsibility of agricultural employers to provide specific information to workers before directing them to perform early entry activities. Workers must be eighteen years old to perform early entry activities.

(xix) Potential hazards to children and pregnant women from pesticide exposure.

(xx) Keep children and nonworking family members away from pesticide treated areas.

(xxi) After working in pesticide treated areas, remove work boots or shoes before entering your home, and remove work clothes and wash or shower before physical contact with children or family members.

(xxii) How to report suspected pesticide use violations to the Washington state department of agriculture.

(xxiii) This section prohibits agricultural employers from intimidating, threatening, coercing, or discriminating against any worker or handler for complying with or attempting to comply with the requirements of this chapter part, or because the worker or handler provided, caused to be provided or is about to provide information to the employer, the EPA or its agents, or any duly authorized representative of the Washington state department of agriculture regarding conduct that the employee reasonably believes violates this chapter part, and/or made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing concerning compliance with this chapter part.

(d) The person who conducts the training must meet one of the following criteria:

(i) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW; or

(ii) Have completed a pesticide safety train-the-trainer program approved by the Washington state department of agriculture in accordance with chapters 15.58 and 17.21 RCW; or

(iii) Be currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(4) Recordkeeping.

(a) For each worker required to be trained under subsection (1) of this section, the agricultural employer must maintain on the agricultural establishment, for two years from the date of the training, a record documenting each worker's training including all of the following:

(i) The trained worker's printed name and signature.

(ii) The date of the training.

(iii) Information identifying which EPA-approved training materials were used.

(iv) The trainer's name and documentation showing that the trainer met the requirements of subsection (3)(d) of this section at the time of training.

(v) The agricultural employer's name.

(b) An agricultural employer who provides, directly or indirectly, training required under subsection (1) of this section must provide to the worker upon request a copy of the record of the training that contains the information required under (a) of this subsection.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-10930 Decontamination supplies for workers—40 C.F.R., Sec. 170.411. (1) Requirement. The agricultural employer must provide decontamination supplies for routine washing and emergency decontamination in accordance with this section for any worker on an agricultural establishment who is performing an activity in an area where a pesticide was applied and who contacts anything that has

been treated with the pesticide including, but not limited to, soil, water, and plants.

(2) Materials and quantities. The decontamination supplies required in subsection (1) of this section must provide adequate water at a minimum to include at least one gallon of water per worker at the beginning of each worker's work period for routine washing and emergency decontamination, soap, and single-use towels. The supplies must meet all of the following requirements:

(a) Water. At all times when this part requires agricultural employers to make water available to workers, the agricultural employer must ensure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. If a water source is used for mixing pesticides, it must not be used for decontamination, unless equipped with properly functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

(b) Soap and single-use towels. The agricultural employer must provide soap and single-use towels for drying in quantities sufficient to meet the workers' reasonable needs. Hand sanitizing gels and liquids or wet towelettes do not meet the requirement for soap. Wet towelettes do not meet the requirement for single-use towels.

(3) Timing.

(a) If any pesticide with a restricted-entry interval greater than four hours was applied, the decontamination supplies must be provided from the time workers first enter the treated area until at least thirty days after the restricted-entry interval expires.

(b) If the only pesticides applied in the treated area are products with restricted-entry intervals of four hours or less, the decontamination supplies must be provided from the time workers first enter the treated area until at least seven days after the restricted-entry interval expires.

(4) Location. The decontamination supplies must be located together outside any treated area or area subject to a restricted-entry interval, and must be reasonably accessible to the workers. The decontamination supplies must not be more than one-quarter mile from where workers are working, except that where workers are working more than one-quarter mile from the nearest place of vehicular access or more than one-quarter mile from any nontreated area, the decontamination supplies may be at the nearest place of vehicular access outside any treated area or area subject to a restricted-entry interval.

(5) Decontamination after early entry activities. At the end of any exposure period for workers engaged in early entry activities permitted by WAC 296-307-11415 and involving contact with anything that has been treated with the pesticide to which the restricted-entry interval applies including, but not limited to, soil, water, air, or surfaces of plants, the agricultural employer ((shall)) must provide, at the site where the workers remove personal protective equipment, soap, clean towels, and an adequate amount of water so that the workers may wash thoroughly. At least ten gallons of water for one employee and twenty gallons of water for two

or more employees ((shall)) must be provided at early entry sites that do not have running water.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-11205 Training requirements for handlers—40 C.F.R., Sec. 170.501. (1) General requirement. Before any handler performs any handler activity involving a pesticide product, the handler employer must ensure that the handler has been trained in accordance with this section within the last twelve months, except as provided in subsection (2) of this section.

Note: In addition to the training required by this section, the agricultural employer ((shall)) must assure without exception, that all employees are trained in accordance with chapter 296-901 WAC, Globally harmonized system for hazard communication.

(2) Exceptions. The following handlers need not be trained under this section:

(a) A handler who is currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(b) A handler who is certified or licensed as a crop advisor by the Washington state department of agriculture under RCW 15.58.230, provided that a requirement for such certification or licensing is pesticide safety training that includes all the topics set out in subsection (3)(b) or (c) of this section as applicable depending on the date of training.

(3) Training programs.

(a) Pesticide safety training must be presented to handlers either orally from written materials or audio-visually, at a location that is reasonably free from distraction and conducive to training. All training materials must be EPA-approved. The training must be presented in a manner that the handlers can understand, such as through a translator. The training must be conducted by a person who meets the handler trainer requirements of (d) of this subsection, and who must be present during the entire training program and must respond to handlers' questions.

(b) The pesticide safety training materials must include, at a minimum, all of the following topics:

(i) Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes by which pesticides can enter the body.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures.

(viii) Need for and appropriate use of personal protective equipment.

(ix) Prevention, recognition, and first-aid treatment of heat-related illness.

(x) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.

(xi) Environmental concerns such as drift, runoff, and wildlife hazards.

(xii) Warnings about taking pesticides or pesticide containers home.

(xiii) Requirements of this section that must be followed by handler employers for the protection of handlers and other persons, including the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, the requirement to use personal protective equipment, the provisions for training and decontamination, and the protection against retaliatory acts.

(c) EPA intends to make available to the public training materials that may be used to conduct training conforming to the requirements of this section. Within one hundred eighty days after a notice of availability of such training materials appears in the *Federal Register*, training programs required under this section must include, at a minimum, all of the topics listed in (c)(i) through (xiv) of this subsection instead of the points listed in (b)(i) through (xiii) of this subsection.

(i) All the topics required in WAC 296-307-10905 (3) (c).

(ii) Information on proper application and use of pesticides.

(iii) Handlers must follow the portions of the labeling applicable to the safe use of the pesticide.

(iv) Format and meaning of information contained on pesticide labels and in labeling applicable to the safe use of the pesticide.

(v) Need for and appropriate use and removal of all personal protective equipment.

(vi) How to recognize, prevent, and provide first-aid treatment for heat-related illness.

(vii) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.

(viii) Environmental concerns, such as drift, runoff, and wildlife hazards.

(ix) Handlers must not apply pesticides in a manner that results in contact with workers or other persons.

(x) The responsibility of handler employers to provide handlers with information and protections designed to reduce work-related pesticide exposures and illnesses. This includes providing, cleaning, maintaining, storing, and ensuring proper use of all required personal protective equipment; providing decontamination supplies; and providing specific information about pesticide use and labeling information.

(xi) Handlers must suspend a pesticide application if workers or other persons are in the application exclusion zone.

(xii) Handlers must be at least eighteen years old.

(xiii) The responsibility of handler employers to ensure handlers have received respirator fit-testing, training and medical evaluation if they are required to wear a respirator by the product labeling.

(xiv) The responsibility of agricultural employers to post treated areas as required by this part.

(d) The person who conducts the training must have one of the following qualifications:

(i) Be currently designated as a trainer of certified applicators or pesticide handlers by the Washington state department of agriculture under chapter 15.58 or 17.21 RCW; or

(ii) Have completed a pesticide safety train-the-trainer program approved by a state, federal, or tribal agency having jurisdiction.

(iii) Be currently certified as an applicator of restricted use pesticides under chapter 17.21 RCW.

(4) Recordkeeping.

(a) Handler employers must maintain records of training for handlers employed by their establishment for two years after the date of the training. The records must be maintained on the establishment and must include all of the following information:

(i) The trained handler's printed name and signature.

(ii) The date of the training.

(iii) Information identifying which EPA-approved training materials were used.

(iv) The trainer's name and documentation showing that the trainer met the requirements of subsection (3)(d) of this section at the time of training.

(v) The handler employer's name.

(b) The handler employer must, upon request by a handler trained on the establishment, provide to the handler a copy of the record of the training that contains the information required under (a) of this subsection.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-11220 Personal protective equipment—40 C.F.R., Sec. 170.507. (1) Handler responsibilities. Any person who performs handler activities involving a pesticide product must use the clothing and personal protective equipment specified on the pesticide product labeling for use of the product, except as provided in WAC 296-307-11420.

(2) Employer responsibilities for providing personal protective equipment. The handler employer must provide to the handler the personal protective equipment required by the pesticide product labeling in accordance with this section. The handler employer must ensure that the personal protective equipment fits, is clean and in proper operating condition. When two or more pesticides are applied to a treated area at the same time, the employer must ensure employees, workers and handlers wear the applicable PPE that would protect against all of the pesticides as a mixture and combined product. For the purposes of this section, long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, and socks are not considered personal protective equipment, although such work clothing must be worn if required by the pesticide product labeling.

(a) If the pesticide product labeling requires that "chemical-resistant" personal protective equipment be worn, it must be made of material that allows no measurable movement of the pesticide being used through the material during use.

(b) If the pesticide product labeling requires that "waterproof" personal protective equipment be worn, it must be

made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(c) If the pesticide product labeling requires that a "chemical-resistant suit" be worn, it must be a loose-fitting, one- or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(d) If the pesticide product labeling requires that "coveralls" be worn, they must be loose-fitting, one- or two-piece garments that cover, at a minimum, the entire body except head, hands, and feet.

(e) Gloves must be the type specified on the pesticide product labeling.

(i) Gloves made of leather, cotton, or other absorbent materials may not be worn while performing handler activities unless gloves made of these materials are listed as acceptable for such use on the pesticide product labeling.

(ii) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with nonseparable absorbent lining materials are prohibited.

(iii) If used, separable glove liners must be discarded immediately after a total of no more than ten hours of use or

within twenty-four hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners must not be reused. Contaminated liners must be disposed of in accordance with any federal, state, or local regulations.

(f) If the pesticide product labeling requires that "chemical-resistant footwear" be worn, one of the following types of footwear must be worn:

(i) Chemical-resistant shoes.

(ii) Chemical-resistant boots.

(iii) Chemical-resistant shoe coverings worn over shoes or boots.

(g) If the pesticide product labeling requires that "protective eyewear" be worn, one of the following types of eyewear must be worn:

(i) Goggles.

(ii) Face shield.

(iii) Safety glasses with front, brow, and temple protection.

(iv) Full-face respirator.

(h) If the pesticide product labeling requires that a "chemical-resistant apron" be worn, a chemical-resistant apron that covers the front of the body from mid-chest to the knees must be worn.

(i) If the pesticide product labeling requires that "chemical-resistant headgear" be worn, it must be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

Table 3

Chemical Resistance Category Selection Chart for Gloves

(For use when selecting glove types to be listed in the PPE section on pesticide label. Only select glove(s) that indicate a high level of chemical resistance.)

Note: This table below provides examples of categories of chemical resistant materials that can be used to protect against different kinds of pesticides.

Solvent Category (see Table 4)	Barrier Laminate	Butyl Rubber ≥ 14 mils	Nitrile Rubber ≥ 14 mils	Neoprene Rubber ≥ 14 mils	Natural Rubber* ≥ 14 mils	Polyethylene	Polyvinyl Chloride (PVC) ≥ 14 mils	Viton ≥ 14 mils
A (dry and water-based formulations)	high	high	high	high	high	high	high	high
B	high	high	slight	slight	none	slight	slight	slight
C	high	high	high	high	moderate	moderate	high	high
D	high	high	moderate	moderate	none	none	none	slight
E	high	slight	high	high	slight	none	moderate	high
F	high	high	high	moderate	slight	none	slight	high
G	high	slight	slight	slight	none	none	none	high
H	high	slight	slight	slight	none	none	none	high

* Includes natural rubber blends and laminates.

HIGH: Highly chemical-resistant. Clean or replace PPE at end of each day's work period. Rinse off pesticides at rest breaks.

MODERATE: Moderately chemical-resistant. Clean or replace within an hour or two of contact.

SLIGHT: Slightly chemical-resistant. Clean or replace within ten minutes of contact.

NONE: No chemical-resistance.

(j) The respirator specified by the pesticide product labeling must be used. If the label does not specify the type of respirator to be used, it (~~shall~~) must meet the requirements of Part Y-5 of this chapter. Whenever a respirator is required by the pesticide product labeling, the handler employer must ensure that the requirements of (j)(i) through (iii) of this subsection are met before the handler performs any handler activity where the respirator is required to be worn. The respiratory protection requirements of Part Y-5 of this chapter (~~shall~~) apply. The handler employer must maintain for two years, on the establishment, records documenting the completion of the requirements of (j)(i) through (iii) of this subsection.

(i) The handler employer (~~shall~~) must assure that the respirator fits correctly by using the procedures consistent with Part Y-5 of this chapter.

(ii) Handler employers must provide handlers with training in the use of the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of Part Y-5 of this chapter.

(iii) Handler employers must provide handlers with a medical evaluation by a physician or other licensed health care professional that conforms to the provisions of WAC 296-307-604 to ensure the handler's physical ability to safely wear the respirator specified on the pesticide product labeling.

(3) Use of personal protective equipment.

(a) The handler employer must ensure that personal protective equipment is used correctly for its intended purpose and is used according to the manufacturer's instructions.

(b) The handler employer must ensure that, before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(4) Cleaning and maintenance.

(a) The handler employer must ensure that all personal protective equipment is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it must be washed thoroughly in detergent and hot water.

(b) If any personal protective equipment cannot or will not be cleaned properly, the handler employer must ensure the contaminated personal protective equipment is made unusable as apparel or is made unavailable for further use by employees or third parties. The contaminated personal protective equipment must be disposed of in accordance with any applicable laws or regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with a pesticide that has the signal word "DANGER" or "WARNING" on the label must not be reused and must be disposed of as specified in this subsection. Handler employers must ensure that any person who handles contaminated personal protective equipment described in this subsection wears the gloves specified on the pesticide product labeling for mixing and loading the product(s) comprising the contaminant(s) on the equipment. If two or more pesticides are included in the contaminants, the gloves worn must meet the requirements for mixing and loading all of the pesticide products.

(c) The handler employer must ensure that contaminated personal protective equipment is kept separate from noncontaminated personal protective equipment, other clothing or laundry and washed separately from any other clothing or laundry.

(d) The handler employer must ensure that all washed personal protective equipment is dried thoroughly before being stored or reused.

(e) The handler employer must ensure that all clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(f) The handler employer must ensure that when filtering facepiece respirators are used, they are replaced when one of the following conditions is met:

(i) When breathing resistance becomes excessive.

(ii) When the filter element has physical damage or tears.

(iii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iv) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(g) The handler employer must ensure that when gas- or vapor-removing respirators are used, the gas- or vapor-removing canisters or cartridges are replaced before further respirator use when one of the following conditions is met:

(i) At the first indication of odor, taste, or irritation.

(ii) When the maximum use time is reached as determined by a change schedule conforming to the provisions of Part Y-5 of this chapter.

(iii) When breathing resistance becomes excessive.

(iv) When required according to manufacturer's recommendations or pesticide product labeling instructions, whichever is more frequent.

(v) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(h) The handler employer must inform any person who cleans or launders personal protective equipment of all the following:

(i) That such equipment may be contaminated with pesticides and there are potentially harmful effects from exposure to pesticides.

(ii) The correct way(s) to clean personal protective equipment and how to protect themselves when handling such equipment.

(iii) Proper decontamination procedures that should be followed after handling contaminated personal protective equipment.

(i) The handler employer must ensure that handlers have a place(s) away from pesticide storage and pesticide use areas where they may do all of the following:

(i) Store personal clothing not worn during handling activities.

(ii) Put on personal protective equipment at the start of any exposure period.

(iii) Remove personal protective equipment at the end of any exposure period.

(j) The handler employer must not allow or direct any handler to wear home or to take home employer-provided personal protective equipment contaminated with pesticides.

(5) Heat-related illness. Where a pesticide's labeling requires the use of personal protective equipment for a han-

handler activity, the handler employer must ensure that no handler is allowed or directed to wear personal protective equipment without implementing measures sufficient to prevent heat-related illness and that each handler is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

Note: Additional requirements in WAC 296-307-097 Outdoor heat exposure, may apply between May 1st and September 30th of each year. See Part G-1.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-11225 Decontamination and eye flushing supplies for handlers—40 C.F.R., Sec. 170.509.

(1) Requirement. The handler employer must provide decontamination and eye flushing supplies in accordance with this section for any handler that is performing any handler activity or removing personal protective equipment at the place for changing required in WAC 296-307-11220 (4)(i).

(2) General conditions. The decontamination supplies required in subsection (1) of this section must include: At the site where handlers remove personal protective equipment, soap, clean towels, and a sufficient amount of water so that the handlers may wash thoroughly. At least ten gallons of water for one employee and twenty gallons of water for two or more employees (~~shall~~) **must** be provided at mixing and loading sites that do not have running water. The decontamination and eye flushing supplies required in subsection (1) of this section must meet all of the following requirements:

(a) Water. At all times when this section requires handler employers to make water available to handlers for routine washing, emergency decontamination or eye flushing, the handler employer must ensure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed. If a water source is used for mixing pesticides, it must not be used for decontamination or eye flushing supplies, unless equipped with properly functioning valves or other mechanisms that prevent contamination of the water with pesticides, such as anti-backflow siphons, one-way or check valves, or an air gap sufficient to prevent contamination.

(b) Soap and single-use towels. The handler employer must provide soap and single-use towels for drying in quantities sufficient to meet the handlers' needs. Hand sanitizing gels and liquids or wet towelettes do not meet the requirement for soap. Wet towelettes do not meet the requirement for single-use towels.

(c) Clean change of clothing. The handler employer must provide one clean change of clothing, such as coveralls, for use in an emergency.

(3) Location. The decontamination supplies must be located together outside any treated area or area subject to a restricted-entry interval, and must be reasonably accessible to each handler during the handler activity. The decontamination supplies must not be more than one-quarter mile from the handler, except that where the handler activity is more than one-quarter mile from the nearest place of vehicular access or more than one-quarter mile from any nontreated area, the decontamination supplies may be at the nearest place of

vehicular access outside any treated area or area subject to a restricted-entry interval.

(a) Mixing sites. Decontamination supplies must be provided at any mixing site.

(b) Exception for pilots. Decontamination supplies for a pilot who is applying pesticides aerially must be in the aircraft or at the aircraft loading site.

(c) Exception for treated areas. The decontamination supplies must be outside any treated area or area subject to a restricted-entry interval, unless the soap, single-use towels, water and clean change of clothing are protected from pesticide contamination in closed containers.

(4) Emergency eye-flushing.

(a) Whenever a handler is mixing or loading a pesticide product whose labeling requires protective eyewear for handlers, or is mixing or loading any pesticide using a closed system operating under pressure, the handler employer must provide at each mixing and loading station and handler decontamination sites, immediately available to the handler, at least one plumbed or portable eye wash system that is capable of delivering gently running water at a rate of at least 0.4 gallons (1.5 liters) per minute for at least fifteen minutes, at least six gallons of water. A plumbed or portable system meeting the above requirements (~~shall~~) **must** be provided at all permanent mixing and loading sites.

(b) Whenever a handler is applying a pesticide product whose labeling requires protective eyewear for handlers, the handler employer must provide at least one pint of water per handler in portable containers that are immediately available to each handler.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-11415 Agricultural employer responsibilities to protect workers entering treated areas during a restricted-entry interval—40 C.F.R., Sec. 170.605. If an agricultural employer directs a worker to perform activities in a treated area where a restricted-entry interval is in effect, all of the following requirements must be met:

(1) The agricultural employer must ensure that the worker is at least eighteen years old.

(2) Prior to early entry, the agricultural employer must provide to each early entry worker the information described in (a) through (h) of this subsection. The information must be provided orally in a manner that the worker can understand.

(a) Location of early entry area where work activities are to be performed.

(b) Pesticide(s) applied.

(c) Dates and times that the restricted-entry interval begins and ends.

(d) Which exception in WAC 296-307-11410 is the basis for the early entry, and a description of tasks that may be performed under the exception.

(e) Whether contact with treated surfaces is permitted under the exception.

(f) Amount of time the worker is allowed to remain in the treated area.

(g) Personal protective equipment required by the pesticide product labeling for early entry.

(h) Location of the pesticide safety information required in WAC 296-307-10830(1) or 296-307-10835(1) and the location of the decontamination supplies required in subsection (8) of this section.

(3) Prior to early entry, the agricultural employer must ensure that each worker either has read the applicable pesticide product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements and statements related to human hazards or precautions, first aid, and user safety.

(4) The agricultural employer must ensure that each worker who enters a treated area during a restricted-entry interval is provided the personal protective equipment specified in the pesticide product labeling for early entry. The agricultural employer must ensure that the worker uses the personal protective equipment as intended according to manufacturer's instructions and follows any other applicable requirements on the pesticide product labeling. Personal protective equipment must conform to the standards in WAC 296-307-11220 (2)(a) through (i).

(5) The agricultural employer must maintain the personal protective equipment in accordance with WAC 296-307-11220 (3) and (4).

(6) The agricultural employer must ensure that no worker is allowed or directed to wear personal protective equipment without implementing measures sufficient to prevent heat-related illness and that each worker is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

(7)(a) The agricultural employer must instruct each worker on the proper use and removal of the personal protective equipment, and as appropriate, on its cleaning, maintenance and disposal. The agricultural employer must not allow or direct any worker to wear home or to take home employer-provided personal protective equipment contaminated with pesticides.

(b) Each worker is instructed in the prevention, recognition, and first-aid treatment of heat-related illness.

Note: Additional requirements in WAC 296-307-097 Outdoor heat exposure, may apply between May 1st and September 30th of each year. See Part G-1.

(8) During any early entry activity, the agricultural employer must provide decontamination supplies in accordance with WAC 296-307-11225, except the decontamination supplies must be outside any area being treated with pesticides or subject to a restricted-entry interval, unless the decontamination supplies would otherwise not be reasonably accessible to workers performing early entry tasks.

(9) If the pesticide product labeling of the product applied requires protective eyewear, the agricultural employer must provide at least one pint of water per worker in portable containers for eye flushing that is immediately available to each worker who is performing early entry activities.

(10) At the end of any early entry activities the agricultural employer must provide, at the site where the workers remove personal protective equipment, soap, single-use towels and an adequate amount of water so that the workers may wash thoroughly. At least ten gallons of water for one employee and twenty gallons of water for two or more

employees (~~shall~~) must be provided at early entry sites that do not have running water.

AMENDATORY SECTION (Amending WSR 19-21-169, filed 10/22/19, effective 2/3/20)

WAC 296-307-11420 Exceptions to personal protective equipment requirements specified on pesticide product labeling—40 C.F.R., Sec. 170.607. (1) Body protection.

(a) A chemical-resistant suit may be substituted for coveralls. If a chemical-resistant suit is substituted for coveralls, any labeling requirement for an additional layer of clothing beneath the coveralls is waived.

(b) A chemical-resistant suit may be substituted for coveralls and a chemical-resistant apron.

(2) Boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable, then leather boots may be worn in such terrain.

(3) Gloves. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during activities with plants with sharp thorns, leather gloves may be worn over chemical-resistant glove liners. However, once leather gloves are worn for this use, thereafter they must be worn only with chemical-resistant liners and they must not be worn for any other use.

(4) Closed systems.

(a) When pesticides are being mixed or loaded using a closed system that meets all of the requirements in (b) of this subsection, and the handler employer meets the requirements in (c) of this subsection, the following exceptions to labeling-specified personal protective equipment are permitted:

(i) Handlers using a closed system to mix or load pesticides with a signal word of "DANGER" or "WARNING" may substitute a long-sleeved shirt, long pants, shoes and socks, chemical-resistant apron, protective eyewear, and any protective gloves specified on the labeling for handlers for the labeling-specified personal protective equipment.

(ii) Handlers using a closed system to mix or load pesticides other than those specified in (a)(i) of this subsection may substitute protective eyewear, long-sleeved shirt, long pants, and shoes and socks for the labeling-specified personal protective equipment.

(b) The exceptions in (a) of this subsection apply only in the following situations:

(i) Where the closed system removes the pesticide from its original container and transfers the pesticide product through connecting hoses, pipes and couplings that are sufficiently tight to prevent exposure of handlers to the pesticide product, except for the negligible escape associated with normal operation of the system.

(ii) When loading intact, sealed, water soluble packaging into a mixing tank or system. If the integrity of a water soluble packaging is compromised (for example, if the packaging is dissolved, broken, punctured, torn, or in any way allows its contents to escape), it is no longer a closed system and the labeling-specified personal protective equipment must be worn.

(c) The exceptions in (a) of this subsection apply only where the handler employer has satisfied the requirements in WAC 296-307-10835 and all of the following conditions:

(i) Each closed system must have written operating instructions that are clearly legible and include: Operating procedures for use, including the safe removal of a probe; maintenance, cleaning and repair; known restrictions or limitations relating to the system, such as incompatible pesticides, sizes (or types) of containers or closures that cannot be handled by the system; any limits on the ability to measure a pesticide; and special procedures or limitations regarding partially filled containers.

(ii) The written operating instructions for the closed system must be available at the mixing or loading site and must be made available to any handlers who use the system.

(iii) Any handler operating the closed system must be trained in its use and operate the closed system in accordance with its written operating instructions.

(iv) The closed system must be cleaned and maintained as specified in the written operating instructions and as needed to make sure the system functions properly.

(v) All personal protective equipment specified in the pesticide product labeling is immediately available to the handler for use in an emergency.

(vi) Protective eyewear must be worn when using closed systems operating under pressure.

(5) Enclosed cabs.

(a) If handling tasks are performed from inside a cab that has a nonporous barrier which totally surrounds the occupants of the cab and prevents contact with pesticides outside of the cab, exceptions to personal protective equipment specified on the product labeling for that handling activity are permitted as provided in (a) and (b) of this subsection.

(b) Persons occupying an enclosed cab (~~shall~~) must have all labeling-specified personal protective equipment immediately available and stored in a chemical-resistant container, such as a plastic bag. They (~~shall~~) must wear such personal protective equipment if it is necessary to exit the cab within a treated area during application or when a restricted-entry interval is in effect. Once personal protective equipment is worn in the treated area, it must be removed before reentering the cab to prevent contamination of the cab.

(c) Persons occupying such an enclosed cab may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory protection device is specified on the pesticide product labeling for the handling activity, it must be worn.

(d) Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer to provide respiratory protection equivalent to or greater than a dust/mist filtering respirator may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory protection device other than a particulate/dust/mist filtering respirator is specified on the pesticide product labeling, it must be worn.

(6) Aerial applications.

(a) Use of gloves. The wearing of chemical-resistant gloves when entering or leaving an aircraft used to apply pesticides is optional, unless such gloves are required on the pesticide product labeling. If gloves are brought into the cockpit of an aircraft that has been used to apply pesticides, the gloves (~~shall~~) must be kept in an enclosed container to prevent contamination of the inside of the cockpit.

(b) Open cockpit. Handlers applying pesticides from an open cockpit aircraft must use the personal protective equipment specified in the pesticide product labeling for use during application, except that chemical-resistant footwear need not be worn. A helmet may be substituted for chemical-resistant headgear. A helmet with a face shield lowered to cover the face may be substituted for protective eyewear.

(c) Enclosed cockpit. Persons occupying an enclosed cockpit may substitute a long-sleeved shirt, long pants, shoes, and socks for labeling-specified personal protective equipment.

(7) Crop advisors.

(a) Provided the conditions in (b) through (d) of this subsection are met, crop advisors and their employees entering treated areas to perform crop advising tasks while a restricted-entry interval is in effect may substitute either of the following sets of personal protective equipment for the personal protective equipment specified on the pesticide labeling for handler activities:

(i) The personal protective equipment specified on the pesticide product labeling for early entry.

(ii) Coveralls, shoes plus socks and chemical-resistant gloves made of any waterproof material, and eye protection if the pesticide product labeling applied requires protective eyewear for handlers.

(b) The application has been complete for at least four hours.

(c) No such entry is allowed until any inhalation exposure level listed in the pesticide product labeling has been reached or any ventilation criteria required in WAC 296-307-10915 (2)(c) or the pesticide product labeling have been met, and either inhalation exposure levels are below PELs in WAC 296-307-624, Part Y-6 Respiratory hazards, or respiratory protection is provided and worn according to requirements in WAC 296-307-594, Part Y-5.

(d) The crop advisor or crop advisor employee who enters a treated area during a restricted-entry interval only performs crop advising tasks while in the treated area.

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-307-25003 (~~What~~) Definitions that apply to this section(2). (~~"Handrail" is a~~) **Handrail.** A rail used to provide employees with a handhold for support.

(~~"Hole" means~~) **Hole.** A gap or void two inches or more in its least dimension, in a floor, roof, or other surface.

(~~"Opening" means~~) **Opening.** A gap or void thirty inches (76 cm) or more high and eighteen inches (48 cm) or more wide, in a wall or partition, through which employees can fall to a lower level.

(~~"Platform" means~~) **Platform.** A work surface elevated above the surrounding floor or ground.

(~~"Runway" means~~) **Runway.** A passageway for persons, elevated above the surrounding floor or ground level, such as a footwalk along shafting or a walkway between buildings.

(~~"Stair railing" means~~) **Stair railing.** A vertical barrier along exposed sides of a stairway to prevent people from falling.

(~~"Standard railing" means~~) **Standard railing.** A vertical barrier along exposed edges of a floor opening, wall opening, ramp, platform, or runway to prevent people from falling.

(~~"Standard strength and construction" means~~) **Standard strength and construction.** Any construction of railings, covers, or other guards that meets the requirements of this section.

(~~"Toeboard" means~~) **Toeboard.** A vertical barrier at floor level along 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.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25006 When (~~may~~) railings may be omitted(~~?~~), Railings may be omitted from sections of open-sided floors, platforms, or walkways where guard rails impair operations, if railings are replaced when they no longer impair operations.

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-307-25009 (~~What~~) **Protection** (~~must~~) **an employer must provide for openings**(~~?~~), (1) Every stairway floor opening must be guarded by a standard railing constructed according to this section. The railing must guard all exposed sides (except the entrance to the stairway). Infrequently used stairways where traffic across the opening prevents using a fixed standard railing (as when located in aisle spaces, etc.), may use an alternate guarding method. In these cases, the guard must have a hinged floor opening cover of standard strength and construction and removable standard railings on all exposed sides (except at the entrance to the stairway). See chapter 296-880 WAC, Unified safety standards for fall protection.

(2) When employees must feed material into any hatchway or chute opening, you must provide protection to prevent people from falling through the opening. See chapter 296-880 WAC, Unified safety standards for fall protection.

(3) When practical, the area under floor openings must be fenced off. Otherwise, the area must be plainly marked with yellow lines and telltales hanging within 5-1/2 feet of the ground or floor level.

(4) Where floor openings are used to drop materials from one level to another, audible warning systems must be installed and used to indicate to employees on the lower level when material is dropped.

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-307-25012 (~~What~~) **Protection** (~~must~~) **an employer must provide for openings and holes**(~~?~~), See requirements in chapter 296-880 WAC, Unified safety standards for fall protection.

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-307-25015 (~~What~~) **Protection** (~~must~~) **an employer must provide for open-sided floors, platforms, and runways**(~~?~~), See requirements in chapter 296-880 WAC, Unified safety standards for fall protection.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25018 (~~What~~) **Requirements that apply to stairway railings and guards**(~~?~~), (1) Every flight of stairs having four or more risers must have standard stair railings or standard handrails as follows (stairway widths measured clear of all obstructions except handrails):

(a) Stairways less than 44 inches wide with both sides enclosed must have at least one handrail, preferably on the right side descending.

(b) Stairways less than 44 inches wide with one side open must have at least one stair railing on the open side.

(c) Stairways less than 44 inches wide with both sides open must have one stair railing on each side.

(d) Stairways more than 44 inches wide but less than 88 inches wide must have one handrail on each enclosed side and one stair railing on each open side.

(e) Stairways 88 or more inches wide must have one handrail on each enclosed side, one stair railing on each open side, and one intermediate stair railing at the approximate middle.

Exception: Vehicle service pit stairways are exempt from this requirement if hand or stair rails would prevent vehicle movement into position over the pit.

(2) Winding stairs must have a handrail that prevents walking on all portions of the treads that are less than 6 inches wide.

(3) Nonindustrial and "monumental" steps are exempt from the requirements of this section. However, public and private building steps at loading or receiving docks, in maintenance areas, etc., and stairs used exclusively by employees, must meet the requirements of this section.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25021 (~~How must a~~) **Standard railing** (~~be constructed?~~) **construction.** A standard railing must meet the following requirements:

(1) The railing has a top rail, intermediate rail, and posts.

(2) The railing height is between thirty-six and forty-two inches nominal from the upper surface of the top rail to the floor, platform, runway, or ramp level.

(3) The top rail is smooth.

(4) The intermediate rail is approximately halfway between the top rail and the floor, platform, runway, or ramp.

(5) The ends of the rails do not overhang the terminal posts except where the overhang does not create a hazard.

(6) Guardrails taller than 42 inches are constructed so they do not create a hazard. Additional mid-rails are installed so that openings beneath the top rail prevent a spherical object with a 19-inch or larger diameter from falling through.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25024 ((How must a) Stair railing ((be constructed?)) construction. A stair railing must be constructed similar to a standard railing. The stair railing must be between 34 and 30 inches tall measured from the top of the top rail to the tread surface meeting the face of the riser at the forward edge of the tread.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25027 ((What are the) Requirements for railing dimensions((?)) Standard railings must meet the following requirements:

- (1) For wood railings:
 - (a) The posts are of at least two inch by four inch nominal stock spaced six feet apart or less; and
 - (b) The top and intermediate rails are of at least two inch by four inch nominal stock.
 - (c) If the top rail is made of two right-angle pieces of 1-inch by 4-inch stock, posts are spaced on 8-foot centers, with 2-inch by 4-inch intermediate rail.
- (2) For pipe railings:
 - (a) The posts and top and intermediate railings are at least 1-1/2 inches nominal diameter (outside diameter); and
 - (b) The posts are spaced on centers of eight feet or less.
- (3) For structural steel railings:
 - (a) The posts and top and intermediate rails are of 2-inch by 2-inch by 3/8-inch angles or other metal shapes of equivalent bending strength; and
 - (b) The posts are spaced on centers of eight feet or less.
- (4) Post anchors and framing parts for all railings are constructed so that the completed structure can withstand a load of at least two hundred pounds applied in any direction at any point on the top rail.
- (5) Other types, sizes, and arrangements of railing construction that meet the following requirements are acceptable:
 - (a) The top rail is smooth;
 - (b) The top rail is between thirty-six and forty-two inches nominal above the floor, platform, runway, or ramp level;
 - (c) The railing is strong enough to withstand two hundred pounds of pressure on the top rail;
 - (d) The railing provides protection between the top rail and the floor, platform, runway, ramp, or stair treads, equivalent to that of a standard intermediate rail;
 - (e) There are no overhanging rail ends unless the overhang does not create a hazard; such as baluster railings, scrollwork railings, or paneled railings.

Note: The dimensions specified are based on the U.S. Department of Agriculture Wood Handbook, No. 72, 1955 (No. 1 (S4S) Southern Yellow Pine (Modulus of Rupture 7,400 psi) for wood; ANSI G 41.5-1970, American National Standard Specifications for Structural Steel, for structural steel; and ANSI B 125.1-1970, American National Standard Specifications for Welded and Seamless Steel Pipe, for pipe.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25030 ((What) Requirements that apply to toeboards((?)) (1) Standard toeboard height is at least four inches nominal from its top edge to the level of the floor, platform, runway, or ramp. The toeboard must be securely fastened in place and with a maximum of 1/4 inch clearance above floor level. It must be made of any substantial material that is either solid or with openings that are a maximum of one inch in diameter.

(2) Where material is piled high enough that a standard toeboard does not provide protection, paneling from the floor to the intermediate rail, or to the top rail, must be provided.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25033 ((How must) Handrails and railings ((be constructed?)) construction. (1) A handrail must have a horizontal part mounted directly on a wall or partition by brackets attached to the lower side of the handrail. The brackets must be attached to ensure that there is a smooth surface along the top and both sides of the handrail. The handrail must be rounded or otherwise provide an adequate handhold for anyone grasping it to avoid falling. The ends of the handrail should be turned in to the supporting wall or arranged to prevent a projection hazard.

(2) Handrails must be a maximum of thirty-four inches high and at least thirty inches from the upper surface of the handrail to the surface of the tread in line with the face of the riser or to the surface of the ramp.

(3) The size of handrails must be:

- (a) For hardwood, at least two inches in diameter.
- (b) For metal pipe, at least 1-1/2 inches in diameter.

 (4) Brackets must be spaced a maximum of eight feet apart.

(5) Handrail mounting must be strong enough to withstand a load of at least two hundred pounds applied in any direction at any point on the rail.

(6) All handrails and railings ((shall)) must have a clearance of at least 1-1/2 inches between the handrail or railing and the wall or any other object.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-25036 ((What) Materials ((may be used)) for floor opening covers((?)) Floor opening covers must be made of any material that meets the following strength requirements:

(1) Trench or conduit covers and their supports, when located in plant roadways, must be designed to carry a truck rear-axle load of at least 20,000 pounds.

(2) Manhole covers and their supports, when located in plant roadways, must meet local standard highway requirements if any; otherwise, they must be designed to carry a truck rear-axle of at least 20,000 pounds.

(3) Other floor opening covers must be made of any material that can carry a truck rear-axle load of at least 20,000 pounds. Covers may project a maximum of one inch above the floor level if all edges are chamfered to a maximum angle with the horizontal of thirty degrees. All hinges, handles, bolts, or other parts must set flush with the floor or cover surface.

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-307-25039 (~~How must~~) Constructing and mounting skylight screens (~~be constructed and mounted?~~). See requirements in chapter 296-880 WAC, Unified safety standards for fall protection.

AMENDATORY SECTION (Amending WSR 20-12-091, filed 6/2/20, effective 10/1/20)

WAC 296-307-25042 (~~What~~) Protection (~~must an~~) the employer is required to provide for openings(?). See requirements in chapter 296-880 WAC, Unified safety standards for fall protection.

AMENDATORY SECTION (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

WAC 296-307-26003 (~~What does this section cover?~~) Scope. WAC 296-307-260 covers the safe design and construction of fixed general industrial stairs. Fixed general industrial stairs includes interior and exterior stairs around machinery, tanks, and other equipment, and stairs leading to or from floors, platforms, or pits.

This section does not apply to stairs used for fire exits, to construction operations, to private buildings or residences, or to articulated stairs that are installed on floating roof tanks or on dock facilities, where the angle changes with the rise and fall of the base support.

Stairs of public and private buildings at loading or receiving docks, in maintenance areas, etc., or stairs that are used exclusively by employees, are considered "fixed industrial steps" and must meet these requirements.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26006 (~~What~~) Definitions that apply to this section(?). (~~"Nose or nosing" means~~) **Nose or nosing**. The part of a tread projecting beyond the face of the riser immediately below.

(~~"Open riser" means~~) **Open riser**. The air space between the treads of stairways without risers.

(~~"Platform" means~~) **Platform**. An extended step or landing breaking a continuous run of stairs.

(~~"Railing" means~~) **Railing**. A vertical barrier erected along exposed sides of stairways and platforms to prevent people from falling. The top part of the railing usually serves as a handrail.

(~~"Rise" means~~) **Rise**. The vertical distance from the top of a tread to the top of the next higher tread.

(~~"Riser" means~~) **Riser**. The upright part of a step at the back of a lower tread and near the leading edge of the next higher tread.

(~~"Stairs or stairway" means~~) **Stairs or stairway**. A series of steps. A series of steps and landings having three or more risers constitutes stairs or a stairway.

(~~"Tread" means~~) **Tread**. The horizontal part of a step.

(~~"Tread run" means~~) **Tread run**. The horizontal distance from the leading edge of a tread to the leading edge of an adjacent tread.

(~~"Tread width" means~~) **Tread width**. The horizontal distance from front to back of tread, including nosing.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26009 (~~Where are~~) How to determine if fixed stairs are required(?). Fixed stairs must be provided for:

(1) Employee access from one structure level to another where operations require regular travel between levels.

(2) Employee access to operating platforms on any equipment that requires regular attention during operations.

(3) Employees that need daily access to elevations, or access at each shift, for purposes such as gauging, inspection, regular maintenance, etc., where:

(a) The work may expose employees to acids, caustics, gases, or other harmful substances; or

(b) Employees must normally carry tools or equipment by hand.

Note: This section does not prohibit the use of fixed ladders for access to elevated tanks, towers, and similar structures, overhead traveling cranes, etc., where the use of fixed ladders is common practice.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26012 (~~Where are~~) Spiral stairs (~~prohibited?~~). Spiral stairways are prohibited except for special limited use and secondary access when a conventional stairway is not practical. Winding stairways may be installed on tanks and similar round structures where the diameter of the structure is a minimum of five feet.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26015 (~~How strong must~~) Strength requirements for fixed stairs (~~be?~~). Fixed stairways must be designed and constructed to carry a load of five times the normal live load anticipated, and must be at least strong enough to carry safely a moving concentrated load of 1,000 pounds.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26018 ((How wide must)) Width requirements for fixed stairs ((be?)). Fixed stairways must be at least 22 inches wide.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26021 ((What angles may)) Angle requirements for installing stairways ((be installed at?)). (1) Fixed stairs must be installed at angles to the horizontal of between thirty and fifty degrees. Any uniform combination of rise/tread dimensions may be used that will provide a stairway at an angle within the permissible range.

The following table lists examples of rise/tread dimensions that will produce a stairway within the permissible range. Rise/tread combinations are not limited to those in the table.

Angle to horizontal	Rise (in inches)	Tread run (in inches)
30°35'	6-1/2	11
32°08'	6-3/4	10-3/4
33°41'	7	10-1/2
35°16'	7-1/4	10-1/4
36°52'	7-1/2	10
38°29'	7-3/4	9-3/4
40°08'	8	9-1/2
41°44'	8-1/4	9-1/4
43°22'	8-1/2	9
45°00'	8-3/4	8-3/4
46°38'	9	8-1/2
48°16'	9-1/4	8-1/4
49°54'	9-1/2	8

(2) A permanent stairway may be installed at an angle above the fifty degree critical angle when space limitations require. Such installations (commonly called inclined ladders or ships ladders) must have handrails on both sides and open risers. They must be capable of sustaining a live load of one hundred pounds per square foot with a safety factor of four. The following preferred and critical angles from the horizontal are recommended for inclined ladders and ships ladders:

- (a) 35 to 60 degrees—Preferred angle from horizontal.
- (b) 60 to 70 degrees—Critical angle from horizontal.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26024 ((What)) Requirements that apply to stair treads((?)). (1) When risers are used, each tread and the top landing of a stairway should have a nose extending 1/2 to one inch beyond the face of the lower riser.

- (2) Noses should have an even leading edge.

(3) All treads must be reasonably slip-resistant and the nosings must be of nonslip finish. Welded bar grating treads without nosings are acceptable if the leading edge can easily be identified by employees descending the stairway and the tread is serrated or is nonslip.

(4) Rise height and tread width must be uniform throughout any flight of stairs including any foundation structure used as one or more treads of the stairs.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26027 ((What)) Requirements that apply to the length of stairways((?)). Long flights of stairs, unbroken by landings or intermediate platforms, should be avoided. You should consider providing intermediate platforms where practical and for frequently used stairways. Stairway platforms must be at least as wide as the stairway and at least 30 inches long, measured in the direction of travel.

AMENDATORY SECTION (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

WAC 296-307-26030 ((What)) Requirements that apply to railings and handrails on fixed stairs((?)). Standard railings must be provided on the open sides of all exposed stairways and stair platforms. Handrails must be provided on at least one side of closed stairways, preferably on the right side descending. Stair railings and handrails must be installed according to WAC 296-307-250.

AMENDATORY SECTION (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

WAC 296-307-26033 ((What)) Requirements that apply to alternating tread-type stairs((?)). ("Alternating tread-type stairs" means) **Alternating tread type stairs.** Stairs with a series of steps between 50 and 70 degrees from horizontal, attached to a center support rail in an alternating manner so that a user of the stairs never has both feet at the same level at the same time.

(1) Alternating tread-type stairs must be designed, installed, used, and maintained according to the manufacturer's specifications, and must have the following:

- (a) Stair rails on all open sides;
- (b) Handrails on both sides of enclosed stairs;
- (c) Stair rails and handrails that provide an adequate handhold for a user grasping it to avoid a fall;
- (d) A minimum of 17 inches between handrails;
- (e) A minimum width of 22 inches overall;
- (f) A minimum tread depth of 8 inches;
- (g) A minimum tread width of 7 inches; and
- (h) A maximum rise of 9 1/2 inches to the tread surface of the next alternating tread.

(2) Alternating tread-type stairs must have a maximum 20-foot continuous rise. Where more than a 20-foot rise is necessary to reach the top of a required stair, one or more intermediate platforms must be provided according to WAC 296-307-26027.

(3) Stairs and platforms must be installed so the top landing of the alternating tread stair is flush with the top of the landing platform.

(4) Stair design and construction must sustain a load of at least five times the normal live load, and be at least strong enough to carry safely a moving concentrated load of 1,000 pounds.

(5) Treads must have slip-resistant surfaces.

(6) Where a platform or landing is used, the width must be at least as wide as the stair and at least 30-inches deep in the direction of travel. Stairs must be flush with the top of the landing platform.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-26036 ((What)) Other requirements that apply to fixed stairs((?)). (1) Vertical clearance above any stair tread to an overhead obstruction must be at least 7 feet measured from the leading edge of the tread.

(2) Stairs with treads less than 9 inches wide should have open risers.

(3) Open grating type treads are desirable for outside stairs.

AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

WAC 296-307-27005 ((What)) Requirements that apply to aerial manlift equipment((?)). (1) We will accept safety factor test data on working or structural components from one of the following as evidence that a manlift meets minimum safety requirements:

- (a) The manufacturer;
- (b) A competent testing laboratory;
- (c) A registered engineering firm; or
- (d) A registered engineer.

If, after use, it appears doubtful whether this equipment will meet the above requirements, we may require that tests be conducted, and we may order that you make corrections.

(2) All aerial manlifts must have working brake systems.

(3) Automatic apertures must be installed in the hydraulic systems of aerial manlifts to maintain the boom in position in case any part of the hydraulic pressure system fails.

(4) Controls must be guarded by partial enclosures to minimize accidental contact.

(5) The manufacturer's recommended maximum load limit must be posted conspicuously near the controls and must be kept in a legible condition.

(6) All critical hydraulic and pneumatic components must meet the provisions of ANSI A92.2-1969, Section 4.9 Bursting Safety Factor. Critical components are those which, in case of failure, would cause a free fall or free rotation of the boom. All noncritical components must have a bursting safety factor of at least two to one.

AMENDATORY SECTION (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

WAC 296-307-27010 ((What)) Requirements that apply to using aerial manlift equipment((?)). (1) The man-

ufacturer's instructional manual, if any, must be used to establish the proper operational sequences and maintenance procedures. If there is no manual, you must develop instructions. The instructions must be available for reference by operators.

(2) The assigned operator must make a daily visual inspection and perform the tests recommended by the manufacturer.

(3) Only employees qualified by training or experience may operate aerial manlifts.

(4) Employees must report defective aerial manlift equipment to you as soon as identified. Using defective equipment is prohibited when the defect may cause an accident.

(5) When moving to and from the job site, the basket of the manlift must be in the low position.

(6) Unsafe practices are prohibited, such as, sitting or standing on the basket edge, standing on material placed across the basket, or working from a ladder set inside the basket.

(7) The basket must not be rested on a fixed object so that the weight of the boom is supported by the basket.

(8) The employee and the aerial manlift equipment must maintain distance from high voltage lines according to WAC 296-307-150.