

WSR 10-09-048
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed April 15, 2010, 11:16 a.m.]

Title of Rule and Other Identifying Information: WAC 458-20-270 Telephone program excise tax rates, this rule provides the rates for the taxes imposed on switched access lines pursuant to RCW 43.20A.725 and 80.36.430.

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 Gayle Carlson, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail GayleC@dor.wa.gov, AND RECEIVED BY June 21, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to amend WAC 458-20-270 to provide the tax rates imposed on switched access lines for the July 1, 2010 - June 30, 2011, fiscal year. The rate for telecommunications relay services (TRS) will change from eleven cents to nineteen cents. The rate for the Washington telephone assistance program (WTAP) will change from thirteen cents to fourteen cents.

Reasons Supporting Proposal: Under RCW 43.20A.725 and 80.36.430, the department is required to annually determine the tax rates imposed on switched access lines to fund the TRS program and WTAP. Each tax rate is determined by dividing the respective program budgets by the number of switched access lines reported to the department in the prior calendar year. The department retains no discretion in the determination of these tax rates, the amount of which is explicitly dictated by the statutory formulas and inputs provided to the department.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 43.20A.725 and 80.36.430.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Carlson, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6126; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Gilbert Brewer, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

April 15, 2010
 Alan R. Lynn
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-14-037, filed 6/24/09, effective 7/25/09)

WAC 458-20-270 Telephone program excise tax rates. RCW 82.72.020 requires the department of revenue (department) to collect certain telephone program excise taxes. Those taxes include the tax on switched access lines imposed by RCW 43.20A.725 (telephone relay service—TRS) and 80.36.430 (Washington telephone assistance program—WTAP). Pursuant to those statutes, the department must annually determine the rate of each respective tax according to the statutory formulas.

The monthly telephone program excise tax rates per switched access line are as follows:

Period	TRS Rate	WTAP Rate
((7/1/2005 - 6/30/2006	10 cents	14 cents))
7/1/2006 - 6/30/2007	9 cents	14 cents
7/1/2007 - 6/30/2008	12 cents	14 cents
7/1/2008 - 6/30/2009	12 cents	13 cents
7/1/2009 - 6/30/2010	11 cents	13 cents
<u>7/1/2010 - 6/30/2011</u>	<u>19 cents</u>	<u>14 cents</u>

WSR 10-09-086
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 20, 2010, 2:28 p.m.]

Title of Rule and Other Identifying Information: Chapter 296-17A WAC, Classifications for workers' compensation insurance.

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 Ronald Moore, Program Director for Employer Services, Labor and Industries, P.O. Box 44140, Olympia, WA 98504-4140, phone (360) 902-4748, e-mail mooa235@lni.wa.gov, AND RECEIVED BY June 22, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amend chapter 296-17A WAC, Classifications for workers' compensation insurance, to move community action organizations' chore service workers from one classification to another.

WAC 296-17A-1501-20 Community action organizations - all other employees N.O.C. Eliminate language requiring community action organizations to report chore service workers.

WAC 296-17A-6511-00 Chore services/home care assistants. Create a subclassification specific to community action organizations for reporting their chore service workers.

Reasons Supporting Proposal: We are responding to requests from community action organizations to allow them to use classification 6511-00 Chore services for their chore workers rather than 1501-20 Community action organizations, all other employees N.O.C. We will update the language in those classifications to reflect this decision.

Statutory Authority for Adoption: RCW 51.16.035 and 51.16.100.

Statute Being Implemented: RCW 51.16.100.

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

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

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, (360) 902-4777; Implementation: Ronald Moore, Tumwater, Washington, (360) 902-4748; and Enforcement: Robert Malooly, Tumwater, Washington, (360) 902-4209.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule making is being made to satisfy requests of employers of community action organizations to establish more affordable rates for their chore service workers.

This rule making will put into rule the reporting instructions those organizations have already been given authorization by the department to use for workers' compensation premium reporting.

April 20, 2010
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/09)

WAC 296-17A-1501 Classification 1501.

1501-00 Counties and taxing districts, N.O.C. - all other employees

Applies to employees of counties and taxing districts, not covered by another classification (N.O.C.), who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators including transit bus drivers. This classification includes administrative personnel such as engineers, safety inspectors, and biologists who have field exposure, and internal inventory and supply clerks. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to or from a work assignment.

This classification excludes electric light and power public utility districts which are to be reported separately in classification 1301; privately owned and operated bus or transit systems which are to be reported separately in classification 1407; water distribution or purification system public utility districts which are to be reported separately in classification 1507; irrigation system public utility districts which are to be

reported separately in classification 1507; port districts which are to be reported separately in classification 4201; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905 and 6906, as appropriate; clerical office and administrative employees who are to be reported separately in classification 5306, and volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

1501-01 Housing authorities, N.O.C. - all other employees

Applies to employees of housing authorities, not covered by another classification, who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification includes all functional operations of a housing authority such as inspection, maintenance and repairs, including minor structural repairs, janitorial service, and building and grounds maintenance. Also included in this classification are meter readers, security personnel, other than those with law enforcement powers, administrative personnel such as engineers and safety inspectors who have field exposure, and internal inventory and supply clerks. For purposes of this classification, housing authorities are defined as nonprofit, public and political entities which serve the needs of a specific city, county or Indian tribe. The nature and objectives of some of the projects undertaken by housing authorities include providing decent, safe and sanitary living accommodations for low income persons, or providing group homes or halfway houses to serve developmentally or otherwise disabled persons or juveniles released from correctional facilities. A housing authority has the power to prepare, carry out, lease and operate housing facilities; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project; to sell or rent dwellings forming part of the project to or for persons of low income; to acquire, lease, rent or sell or otherwise dispose of any commercial space located in buildings or structures containing a housing project; to arrange or contract for the furnishing of the units; and to investigate into the means and methods of improving such conditions where there is a shortage of suitable, safe and sanitary dwelling accommodations for persons of low income.

This classification excludes new construction or major alteration activities which are to be reported separately in the appropriate construction classifications; clerical office and administrative employees who are to be reported separately in classification 5306; security personnel with law enforcement powers who are to be reported separately in classification 6905; and volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

1501-08 Native American tribal councils - all other employees

Applies to employees of Native American tribal councils who perform manual labor, or who supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators. This classification

includes administrative personnel such as engineers, safety inspectors, and biologists who have field exposure, and internal inventory and supply clerks of the tribal council. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to and from a work assignment.

This classification excludes electric light and power public utility districts which are to be reported separately in classification 1301; water distribution or purification system public utility districts which are to be reported separately in classification 1507; irrigation system public utility districts which are to be reported separately in classification 1507; school districts, library districts or museum districts which are to be reported separately in classifications 6103 or 6104; hospital districts which are to be reported separately in classification 6105; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classifications 6905 and 6906; new construction or reconstruction activities which are to be reported separately in the appropriate construction classification; clerical office and administrative employees who are to be reported separately in classification 5306.

Special notes: Housing authorities operating under the name of, and for the benefit of, a particular tribe are not exempt from mandatory coverage. These housing authorities are federally funded and are not owned or controlled by a tribe.

Only those tribal operations which are also provided by county governments are subject to classification 1501. The following activities, such as but not limited to, visiting nurses and home health care, grounds keepers, building maintenance, park maintenance, road maintenance, and garbage and sewer works, are considered to be normal operations to be included in this classification. All other tribal council operations which are not normally performed by a county government shall be assigned the appropriate classification for the activities being performed. The following operations, such as but not limited to, meals on wheels, bingo parlors, casinos, liquor stores, tobacco stores, grocery stores, food banks, gift shops, restaurants, motels/hotels, Head Start programs, fish/shellfish hatcheries, logging, and tree planting/reforestation are outside the scope of classification 1501 and are to be reported separately in the applicable classifications.

1501-09 Military base maintenance, N.O.C.

Applies to establishments, not covered by another classification (N.O.C.), engaged in providing all support operations and services on a military base on a contract basis. Such services include, but are not limited to, data processing, photography, mail delivery (on post and to other military facilities), hotel/motel services, mess halls, recreational facilities, grounds and building maintenance, vehicle maintenance, and may also include the maintenance of such facilities as water works, sewer treatment plants and roads.

This classification excludes new construction or construction repair projects which are to be reported separately in the applicable construction classification for the work being performed; contracts for specific activities on a military base such as, but not limited to, building maintenance, club or mess hall operations, or vehicle maintenance, which are to be reported separately in the applicable classification for the

work being performed; firefighters who are to be reported separately in classification 6904; law enforcement officers who are to be reported separately in classification 6905; and clerical office and administrative employees who are to be reported separately in classification 5306.

Special note: Classification 1501-09 is to be assigned to an establishment only when *all* support services on a military base are being provided by the contractor. Care should be taken when assigning classification 1501-09 to firms whose military support services include loading, unloading, repair or construction of vessels, or the repair of buildings or structures used for such activities as that firm may be subject to federal maritime law.

1501-20 Community action organizations - all other employees N.O.C.

Applies to organizations performing an array of services to support the local community and citizens in need. The services provided by community action organizations may include, but are not limited to: Child care; after school care; alternative schools; in home chore services; employment or independence training, counseling and assistance; drug and alcohol recovery programs; decent, safe and sanitary living accommodations for low-income or needy citizens; transitional or emergency housing; weatherization; food and clothing banks; meals; or medical services.

This classification applies to employees of community action organizations N.O.C. (not otherwise classified) who perform manual-type labor, or who supervise a work crew performing manual labor. Work in this classification includes, but is not limited to: Cooks, food banks, drivers, (~~chore workers/home service workers,~~) janitorial or maintenance and repair work, or weatherization services.

Excluded from this risk classification is new construction or major alteration activities which are to be reported separately in the appropriate construction classifications; office employees who work exclusively in an administrative office environment who are to be reported in classification 4904-20; professional or administrative employees who may also have duties outside of the office who are to be reported in classification 5308-20; chore workers/home service workers who are to be reported in classification 6511-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers which are to be reported in 7309; and volunteers who are to be reported in classification 6901.

See classifications 5308-20 and 4904-20 for other community action operations.

AMENDATORY SECTION (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

WAC 296-17A-6511 Classification 6511.

6511-00 Chore services/home care assistants

Applies to establishments engaged in providing chore services/home care assistants to private individuals. Chore services performed by the chore workers/home care assistants include, but are not limited to, general household chores, meal planning and preparation, shopping and errands either with or without the client, personal care such as bath-

ing, body care, dressing, and help with ambulating, as well as companionship. Frequently the recipients of service are funded by DSHS or some other community service agency; however, the services are also available to those who pay privately. This classification also applies to supported living, tenant support, and intensive tenant support services.

This classification excludes individuals working under a welfare special works training program who are to be reported separately in classification 6505; domestic (residential) cleaning or janitorial services which are to be reported separately in classification 6602; and skilled or semiskilled nursing care which is to be reported separately in classification 6110. This classification also excludes home care providers covered under the home care quality authority who are to be reported separately under classification 6512.

6511-20 Community action organizations - Chore services/home care assistants

Applies to community action organizations who provide chore services/home care assistants to private individuals. Chore services performed by the chore workers/home care assistants include, but are not limited to, general household chores, meal planning and preparation, shopping and errands either with or without the client, personal care such as bathing, body care, dressing, and help with ambulating, as well as companionship. This classification also applies to supported living, tenant support, and intensive tenant support services.

This classification excludes individuals working under a special work experience training program who are to be reported separately in classification 6505; domestic (residential) cleaning or janitorial services which are to be reported separately in classification 6602; and skilled or semiskilled nursing care which is to be reported separately in classification 6110. This classification also excludes home care providers covered under the Washington state home care quality authority who are to be reported separately in classification 6512.

**WSR 10-09-087
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed April 20, 2010, 2:39 p.m.]

Title of Rule and Other Identifying Information: WAC 296-31-030 What are the eligibility requirements of a mental health treatment provider under the Crime Victims Act?

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 Naomi Goodman, Rules Coordinator, Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY June 22, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of labor and industries' WAC 296-31-030 (2) and (3) refer to the "registered" counselor profession. The purpose of this rule making is to remove the "registered" counselor from the list of professions eligible to treat under the Crime Victims Act.

2SHB 2674 (chapter 135, Laws of 2008) required the department of health to eliminate the "registered" counselor credential as a licensed profession by July 1, 2010. The registered counselor profession was divided into eight new categories of fully credentialed and precredential status health professionals.

The department of health stopped issuing licenses for registered counselors on July 1, 2009. By amending WAC 296-31-030, the department of labor and industries' crime victims compensation program will ensure consistency with the licensing requirements of the department of health.

Reasons Supporting Proposal: To be consistent with the department of health and in compliance with chapter 135, Laws of 2008.

Statutory Authority for Adoption: RCW 7.68.030.

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

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janice M. Deal, Tumwater, Washington, (360) 902-5369.

April 20, 2010

Judy Schurke

Director

AMENDATORY SECTION (Amending WSR 01-22-105, filed 11/7/01, effective 12/8/01)

WAC 296-31-030 What are the eligibility requirements of a mental health treatment provider under the Crime Victims Act? (1) Mental health providers must qualify as an approved provider and register with the crime victims compensation program before they are authorized to provide treatment and receive payment in accordance with these rules.

(2) The following providers who are permanently licensed (~~or registered~~) in Washington are eligible to register with this program:

- (a) Psychiatrists;
- (b) Psychologists;

(c) Advanced registered nurse practitioners with a specialty in psychiatric and mental health nursing;

(d) Ph.D.s not licensed as psychologists and master level counselors whose degree is in a field of study related to mental health services including, but not limited to, social work, marriage and family therapy or mental health counseling.

(3) Out-of-state providers must be currently licensed, (~~registered and~~) or certified within the state in which they practice. Washington requires mental health counselors to

have a masters degree to treat Washington crime victim clients.

EXCEPTION: In areas where the department has determined licensed, ((registered and/))or certified providers are not available, the department may consider registration exceptions on an individual basis.

WSR 10-09-093
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed April 20, 2010, 3:23 p.m.]

Title of Rule and Other Identifying Information: Chapter 296-828 WAC, Hazardous chemicals in laboratories.

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 Naomi Goodman, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY June 22, 2010.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adding language to WAC 296-828-100 Scope, to clarify how the formaldehyde rule applies to certain labs in relation to this rule.

IMPORTANT statement: Adding language to clarify how the formaldehyde rule applies to certain labs in relation to this rule.

Current language: "When your laboratory operation is covered by this chapter, and you use any of the substances in Table 2, the following applies:" followed by a bulleted list.

New language: "When your laboratory operation is covered by this chapter, and you use any of the substances in Table 2, the following applies with the exception of formaldehyde use in histology, pathology, and anatomy laboratories. In histology, pathology, and anatomy laboratories you must follow the requirements in chapter 296-856 WAC, Formaldehyde. This chapter applies to all other formaldehyde laboratory uses as defined in Table 1." The same bulleted list then follows.

Reasons Supporting Proposal: The revision will make the relationship clearer between the requirements of the division of occupational safety and health's hazardous chemicals in laboratories standard and the requirements of the formaldehyde standard, thereby eliminating confusion and clarifying employer obligations. Eliminating confusion and clarifying employer obligations should increase employee safety while reducing compliance costs.

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

Statute Being Implemented: Chapter 49.17 RCW.

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

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

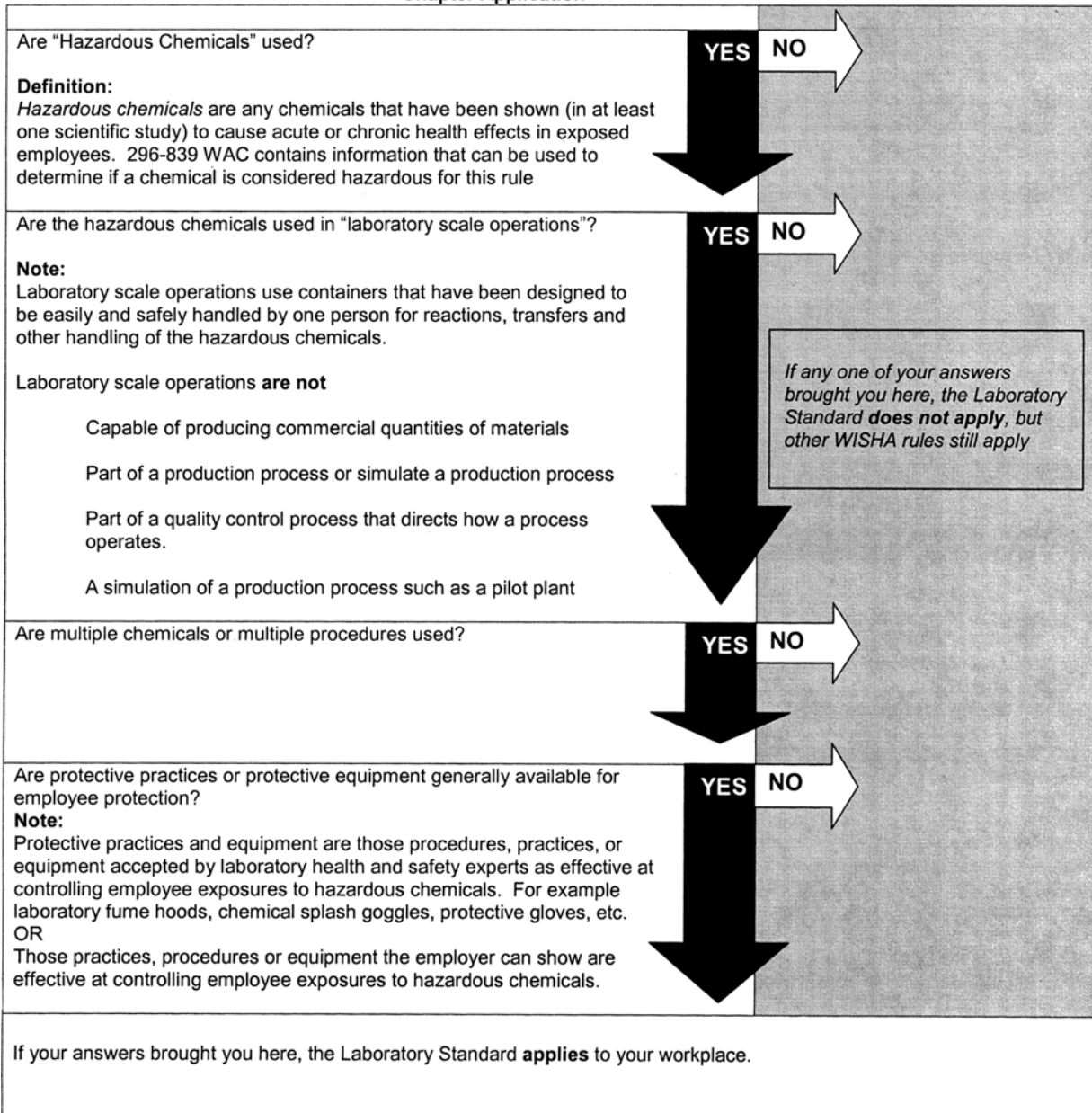
Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, (360) 902-4805.

April 20, 2010
Judy Schurke
Director

AMENDATORY SECTION (Amending WSR 07-05-062, filed 2/20/07, effective 4/1/07)

WAC 296-828-100 Scope. This chapter applies to the laboratory use of hazardous chemicals. To determine if this chapter applies to your workplace, use Table 1.

**Table 1
Chapter Application**



*If any one of your answers brought you here, the Laboratory Standard **does not apply**, but other WISHA rules still apply*

IMPORTANT:

- When your laboratory operation is covered by this chapter, and you use any of the substances in Table 2, the following applies with the exception of formaldehyde use in histology, pathology, and anatomy laboratories. In histology, pathology, and anatomy laboratories you must follow the requirements in chapter 296-856 WAC, Formaldehyde. This chapter applies to all other formaldehyde laboratory uses as defined in Table 1:

- The exposure limits and any requirement protecting employees from skin and eye contact in the rules listed in Table 2 will still apply.

- Where the action level (or where no action level exists, the permissible exposure limit) is exceeded for a substance

listed in Table 2, the exposure evaluation and medical surveillance requirements in the substance rule will still apply.

- You are not required to meet other requirements of the substance rule.

- To get the permissible exposure limits (PELs) for hazardous chemicals used in your laboratory, see chapter 296-841 WAC, Airborne contaminants.

**Table 2
WISHA Regulated Hazardous Chemicals**

Acrylonitrile
Arsenic (inorganic)
Asbestos
Benzene

Table 2
WISHA Regulated Hazardous Chemicals

Butadiene
Cadmium
Coke ovens
Cotton dust
1, 2-Dibromo-3-chloropropane
Ethylene oxide
Formaldehyde
Lead
Methylene chloride
Methylenedianiline
Vinyl chloride
Ionizing radiation
4-Nitrobiphenyl
Alpha-Naphthylamine
4,4' Methylene bis (2 - chloroaniline)
Methyl chloromethyl ether
3,3'-Dichlorobenzidine (and its salts)
Bis-Chloromethyl ether
Beta-Naphthylamine benzidine
4-Aminodiphenyl
Ethyleneimine
Beta-Propiolactone
2-Acetylaminofluorene
4-Dimethylaminoazobenzene
N-Nitrosodimethylamine