

WSR 06-01-004
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed December 8, 2005, 11:23 a.m.]

Title of Rule and Other Identifying Information: WAC 458-20-17803 Use tax on promotional material, this rule explains the use tax reporting responsibilities of persons who distribute or cause the distribution of any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products of services.

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 JoAnne Gordon, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, fax (360) 586-5543, e-mail joanneg@dor.wa.gov, AND RECEIVED BY February 22, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed WAC 458-20-17803 (Rule 17803) incorporates provisions of chapter 514, Laws of 2005. Subsection (5)(b) has been reworded to more clearly explain that a consumer owes use tax on the measure of tax with respect to both the value of promotional material article used and the value of services rendered in respect to altering, imprinting, or improving promotional material when the consumer contracts with separate persons for the promotional material and services to prepare the material for distribution.

Reasons Supporting Proposal: Rule 17803 explains that with respect to promotional material, the measure of tax includes delivery charges, which, in turn, includes charges for postage costs incurred by the seller. Effective May 17, 2005, chapter 514, Laws of 2005, supersedes these instructions for postage costs as it provides a use tax deduction for amounts derived from delivery charges made for the delivery of direct mail, if the charges are separately stated.

The department adopted an emergency rule to reflect this change in law. The department plans to use the expedited process to adopt the proposed rule as the permanent rule.

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

Statute Being Implemented: Provisions of chapter 514, Laws of 2005.

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: JoAnne Gordon, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6121; Implementation: Alan R. Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6125; and Enforcement: Janis P. Bianchi, 1025

Union Avenue S.E., Suite #544, Olympia, WA, (360) 570-6147.

December 7, 2005

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-03-051, filed 1/11/05, effective 7/1/05)

WAC 458-20-17803 Use tax on promotional material. (1) **Introduction.** Persons who distribute or cause to be distributed any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services, are subject to use tax on the value of the property. RCW 82.12.010, 82.12.020, and chapter 367, Laws of 2002. This ~~((rule))~~ section explains the use tax reporting responsibilities of consumers when such property is delivered directly to persons other than the consumer from outside Washington. For the purposes of this ~~((rule))~~ section, the term "promotional material" is used in describing such property where applicable.

This rule provides numerous examples that identify a number of facts and then state a conclusion. These examples should only be used as a general guide. Similar determinations for other situations can be made only after a review of all facts and circumstances. For purposes of these examples, presume the promotional material is delivered to persons within Washington.

Chapter 514, Laws of 2005, changed the taxability of delivery charges associated with direct mail. Refer to subsection (5) of this section for further information.

(2) **What is the use tax?** The use tax complements the retail sales tax by imposing a tax of a like amount when a consumer uses tangible personal property or certain retail services within this state. RCW 82.12.020. The tax does not apply to the use of any property or service if the present user, donor, or bailor previously paid retail sales tax under chapter 82.08 RCW with respect to the property used or the service obtained. See WAC 458-20-178 (Use tax) for an explanation of the use tax and use tax reporting requirements.

(3) **Who is liable for the use tax on promotional material?** The use tax is imposed on the consumer. Effective June 1, 2002, the law provides that with respect to promotional material distributed to persons within this state, the consumer is the person who distributes or causes the distribution of the promotional material. A consumer as defined in this rule is responsible for remitting use tax only if the consumer has nexus in Washington.

(a) **Example 1.** Department Store contracts with Printer ~~((in Idaho,))~~ to print promotional material advertising sale merchandise available at Department Store's Washington locations. Printer ~~((delivers))~~ distributes promotional material to ~~((Seattle Mailing Bureau, with whom Department Store has contracted to prepare the material for distribution to))~~ Department Store's customers. Department Store is the consumer of the promotional material and is liable for use tax on promotional material distributed ~~((within))~~ into Washington. Neither Printer ~~((Seattle Mailing Bureau,))~~ nor Department Store's customers are consumers of this promotional material.

(b) **Example 2.** Retailer contracts with Seattle Advertising Agency for advertising services. Advertising Agency makes a single charge for all services, which includes designing, printing, and distributing catalogs to potential customers. Advertising Agency contracts with California Printer to print and prepare for distribution promotional material advertising a new Washington location. Retailer is the consumer of the catalogs and is liable for use tax on the promotional material sent to Washington addresses. Neither Advertising Agency nor potential customers are consumers of this promotional material.

(4) **What is promotional material?** Promotional material is any article of tangible personal property, except newspapers, displayed or distributed in the state of Washington for the primary purpose of promoting the sale of products or services. Examples of promotional material include, but are not limited to, advertising literature, circulars, catalogs, brochures, inserts (but not newspaper inserts), flyers, applications, order forms, envelopes, folders, posters, coupons, displays, signs, free gifts, or samples (such as carpet or textile samples).

(a) **Is advertising contained on billing statements promotional material?** It is presumed that the primary purpose of billing statements and statements of account is to secure payment for goods or services previously purchased. Thus, unless the facts and circumstances indicate that the primary purpose of the property is to promote the sale of goods and services, billing statements and statements of account are not considered promotional material. Attaching, affixing, or otherwise incorporating property promoting the sale of goods or services does not alter the primary purpose of billing statements and statements of account. However, flyers, inserts, or other separate property enclosed with billing statements or statements of account that promote the sale of goods or services are promotional material and subject to use tax.

(i) **Example 1.** Richland Attorney contracts with Oregon Printer to print and prepare for distribution monthly billing statements and return remittance envelopes to Attorney's clients. The contract also includes printing and inserting flyers promoting Attorney's estate planning services. The primary purpose of the flyers is to solicit the sale of services. Consequently, the flyers are promotional material. The primary purpose of the billing statements is to secure payment for services rendered. The billing statements are not promotional material.

(ii) **Example 2.** Department Store prints the monthly billing statements for its store credit card in Atlanta, Georgia, and mails them to customers located in Washington. Although the billing statement includes three sentences noting an upcoming sale, this information does not alter the primary purpose of the billing statement, which is to secure payment for services rendered. The billing statements are not promotional material.

(iii) **Example 3.** The following month, Department Store's billing statement includes a detachable coupon for fifteen percent off selected items purchased during a specified period. Although the detachable coupon solicits the sale of goods or services, it does not alter the primary purpose of the billing statement, which is to secure payment for goods or

services already purchased. The billing statement and detachable coupon are not promotional material.

(iv) **Example 4.** In the third month, Department Store lengthens the billing statement to include information promoting the grand opening of a location. Although the lengthened portion of the billing statement contains information promoting the sale of goods or services, it does not alter the primary purpose of the billing statement, which is to secure payment for goods or services already purchased. The lengthened billing statement is not promotional material.

(b) **When are envelopes considered promotional material?** Envelopes used solely to mail property to promote the sale of goods or services are considered promotional material and subject to use tax.

Envelopes used to mail nonpromotional material, such as billing statements and statements of account, are used to secure payment for goods purchased or services rendered. The same is true of return envelopes that are enclosed for submitting payment. Unless the facts and circumstances indicate otherwise, the presumption is that the primary purpose of envelopes used for mailing both promotional and nonpromotional material in the same envelope is not to promote the sale of goods and services. Thus, envelopes and return envelopes used for dual purposes are not subject to use tax, even though promotional material may be printed on or attached to the envelopes. Although the imprinted or attached material promotes the sale of goods or services, it does not alter the primary purpose of the envelopes.

(i) **Example 1.** Bank mails brochures, applications, and return envelopes from Atlanta, Georgia, to Washington addresses promoting Bank's credit card. The primary purpose of envelopes used to mail the brochures, applications, and return envelopes is to solicit the sale of services. The envelopes, brochures, and applications are promotional material.

(ii) **Example 2.** Telephone Company mails monthly billing statements to Washington customers from St. Louis, Missouri. Inserts promoting the sale of various telephone accessories are included. Return envelopes to be used in making payment of the statement amount are also enclosed. The primary purpose of the envelopes used to mail the billing statements and the return envelopes is to secure payment. Neither the mailing envelopes nor the return envelopes are promotional material.

(iii) **Example 3.** Mortgage Company mails monthly billing statements to Washington residents from its administrative offices in Nevada. The enclosed return envelope for customers to use in making payment includes an attachment promoting additional banking services. Although the attachment to the return envelopes contains advertising information, it does not alter the primary purpose of the envelope which is to obtain payment. Neither the mailing envelopes nor the return envelopes are promotional material.

(5) **What is the measure of tax?** The measure of the use tax is the value of the article used. For the purposes of computing the use tax due on promotional material, the measure of tax is the amount of consideration paid for the promotional material without deduction for the cost of materials, labor, or other service charges, even though such charges may be stated or shown separately on invoices. Except as noted below, it also includes the amount of any freight, delivery, or

other like transportation charge paid or given by the consumer to the seller. The value of the promotional material also includes any tariffs or duties paid. If the total consideration paid does not represent the true value of the article used, the value must be determined as nearly as possible according to the retail selling price at place of use of similar materials of like quality and character. RCW 82.12.010.

A consumer who has paid retail sales or use tax that is due in another state with respect to promotional material that is subject to use tax in this state may take a credit for the amount of tax so paid. RCW 82.12.035. For further information, refer to WAC 458-20-178 (Use tax).

(a) ~~((Does the measure of tax include delivery charges?))~~ **Delivery charges.** Chapter 514, Laws of 2005, altered the measure of the use tax with respect to the value of delivery charges made for the delivery of direct mail.

(i) **Delivery charges May 17, 2005, and after.** Effective May 17, 2005, amounts derived from delivery charges for the delivery of direct mail may be deducted from the measure of use tax when the delivery charge is separately stated on an invoice or similar billing invoice provided to the buyer.

(ii) **Delivery charges from June 1, 2002, through May 16, 2005.** The measure of tax includes all delivery charges. Postage is a delivery charge and is therefore included in the measure of tax if the cost is part of the consideration paid by the consumer to the seller. RCW 82.08.010 and 82.12.010. It is immaterial if amounts charged for postage are stated or shown separately on invoices. Amounts charged for postage and other delivery costs are not included in the measure of tax only if the amounts are not part of the consideration paid. ~~((For discussion about when postage is and is not considered part of the consideration paid, please refer to WAC 458-20-141 (Duplicating industry and mailing bureaus).))~~

(A) **When are delivery charges part of the consideration paid?** Charges for postage or other delivery costs are considered part of the consideration paid if the permit to use precanceled stamps, a postage meter, or an imprint account for bulk mailings is in the name of the party contracted to provide and/or prepare promotional material for distribution. Such parties are liable to the post office for payment and the consumer's payment of such amounts represents a payment on the sale of tangible personal property or the services provided. For further information, refer to WAC 458-20-111 (Advances and reimbursements).

(B) **When are delivery charges not part of the consideration paid?** Charges for postage or other delivery costs are not considered part of the consideration paid if the permit to use precanceled stamps or a permit imprint account for bulk mailings is in the consumer's name. The consumer in these cases has primary or secondary liability for payment of the postage costs. (Refer to WAC 458-20-111 for information about advances and reimbursements.)

(iii) **What is direct mail?** "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing

the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address. RCW 82.08.010 and chapter 514, Laws of 2005.

(iv) **What are delivery charges?** "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing. RCW 82.08.010.

(b) **What is the measure of tax when a consumer contracts with one ((party)) person for the promotional material and a ((third party)) separate person to prepare the material for distribution?** ~~((The use tax is imposed on consumers of certain services rendered in respect to tangible personal property for use in this state when the retail sales tax has not been paid. RCW 82.12.020. These services generally include labor and services rendered in respect to altering, imprinting, or improving tangible personal property and include activities performed typically by mailing bureaus or houses, such as addressing, labeling, binding, folding, sealing, and tabbing.))~~

A consumer of promotional materials is subject to use tax on the value of the promotional material and the value of ~~((the))~~ certain services ~~((used. The value of the service used is the amount of consideration paid for the service and includes delivery charges such as postage. RCW 82.12.010 and 82.08.010))~~ rendered in respect to promotional material used in this state when the retail sales tax has not been paid.

The use tax is imposed on the value of the article used in this state. The tax is also imposed on the value of labor and services rendered in respect to altering, imprinting, or improving tangible personal property for use in this state when the retail sales tax has not been paid. RCW 82.12.020. With respect to promotional material, this includes activities typically performed by mailing bureaus or mail houses to prepare material for distribution, such as addressing, labeling, binding, folding, sealing, and tabbing.

(i) For discussion about activities performed by mailing bureaus, refer to WAC 458-20-141 (Duplicating activities and mailing bureaus).

(ii) For discussion about activities performed by the printing industry, refer to WAC 458-20-144 (Printing industry).

(c) **What is the measure of tax when a consumer manufactures its own promotional materials?** The measure of use tax is the value of the promotional material. Refer to WAC 458-20-112 (Value of products). A consumer who manufactures its own promotional material may also be conducting manufacturing activities and should refer to WAC 458-20-134 (Commercial or industrial use) and WAC 458-20-136 (Manufacturing, processing for hire, fabricating).

(6) **Determining the applicable local use tax rate.** For purposes of determining the applicable rate of local use tax for promotional material, the following guidelines must be followed unless the consumer obtains prior written approval from the department to use an alternative method. Refer to (c) of this subsection for an explanation of the circumstances under which the department will consider approving alternate methods and how to obtain such approval.

(a) Operations directed from within Washington.

The applicable local taxing jurisdiction and tax rate is the in-state location from where the consumer directs or manages its Washington operations.

(i) **Example 1.** Department Store operates ten locations in western Washington. Department Store's corporate headquarters, the location from where it manages its in-state operations, is in Seattle. The local use tax rate for Seattle is the applicable rate.

(ii) **Example 2.** Retailer, a national company with headquarters in Chicago, Illinois, operates multiple locations in Washington. Retailer manages its Washington operations from a location in Spokane. The local use tax rate for Spokane is the applicable rate.

(b) Operations directed from outside Washington. A consumer that manages or directs its Washington activities from outside the state must equally apportion the value of the promotional material among the local tax jurisdictions where the consumer conducts its business activities. Promotional material that is targeted to specific business locations of the consumer must be apportioned solely between those business locations. Targeted material is material specifically distributed to promote sales of products or services solely at a specific location(s) and at a different price(s) or terms than those offered at all other Washington locations.

(i) **Example 1.** Bank directs the operations of its four Washington branches from its headquarters in Sacramento, California. The branches are in Seattle, unincorporated King County, Tacoma, and Everett. For purposes of determining use tax liability, twenty-five percent of the value of the promotional material must be equally apportioned to Seattle, unincorporated King County, Tacoma, and Everett.

(ii) **Example 2.** Furniture Store, headquartered in Nevada, orders 100,000 flyers from a Portland, Oregon, printer to be mailed to Washington households announcing the opening of its new store in Spokane. Customers will receive a ten percent discount on all items purchased at the Spokane store. This discount will not apply to purchases made at Store C's other Washington locations. The local use tax rate for Spokane is the applicable rate.

(iii) **Example 3.** Restaurant manages the operations of its Washington locations from Portland, Oregon. Restaurant contracts to have coupon books printed and mailed to households in Clark and Cowlitz counties. The coupons are accepted only at the Vancouver and Longview locations. The value of the promotional material must be equally apportioned to both locations.

(iv) **Example 4.** Ohio Manufacturer has no offices, warehouses, or storefront locations in Washington. A salesperson operating from the person's Kent home solicits sales from Washington distributors for the manufacturer. Manufacturer mails promotional material to its distributors' customers in Washington. The local use tax rate for Kent is the applicable rate.

(v) **Example 5.** Michigan Wholesaler without offices, warehouses, or storefront locations in Washington sends salesperson into Washington to solicit sales. Wholesaler mails promotional material to potential customers in Washington. The applicable local use tax rate is a uniform statewide local rate of .005.

(c) Are there alternative methods for determining the place of first use? For purposes of reporting use tax on promotional material, the department may agree to allow a consumer to use another method of determining the applicable local use tax rate provided that the method proposed by the consumer results in an equal or more equitable distribution of the tax. A consumer may request written approval for the use of an alternative method by contacting the department's taxpayer services division at:

Department of Revenue
Taxpayer Services
P.O. Box 47478
Olympia, WA 98504-7478

WSR 06-01-072
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed December 20, 2005, 9:49 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-54 WAC, Safety standards for logging operations.

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 Carmen Moore, Rule Coordinator, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY March 7, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to be at-least-as-effective-as the occupational safety and health administration (OSHA). The department received a letter from OSHA indicating that we were not as-effective-as the federal requirements relating to the logging standard. For example:

- We are removing an exception to the requirement for seat belts.
- We are removing an exception in the wire rope section, so that it applies to chokers.
- We are adding into the rule that gloves for employees handling wire rope will be provided by the employer.

Amended Sections:

WAC 296-54-507 Employers responsibilities.

- Changed the requirement to provide safety training for each employee.

WAC 296-54-51140 Hand protection.

- Changed requirement to read that employer will [be] providing hand protection.

WAC 296-54-51180 Personal flotation devices.

- Deleted language that said employees are not considered exposed to the danger of drowning when the water depth is known to be less than chest deep on the exposed individual.

WAC 296-54-515 Accident prevention program.

- Added language which states that the accident prevention program must be effective in practice.
- Included an item in the safety training program which covers the safe use, operation and maintenance to [of] tools, machines and vehicles.

WAC 296-54-527 Seat belts.

- Removed the exemption to the requirement that all employees must use available seat belts.

WAC 296-54-537 Chain saws.

- Added a requirement that chain saws must be operated and adjusted in accordance with manufacturer's instructions.
- Added a requirement that the chain saw must be started with the chain brake engaged, unless the manufacturer prohibits.

WAC 296-54-557 Wire rope.

- Removed the exemption that said the section did not apply to chokers.

WAC 296-54-573 Logging machines—General.

- Added a requirement that the floor and lower portion of cabs be completely enclosed.

WAC 296-54-57355 Logging machines—Protective structures for operators.

- Reformatted subsection (11) to line up with OSHA's rule.

WAC 296-54-581 Helicopter logging—General.

- Added the words "rescue situation" to the sentence about prohibiting the riding of a hook.

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: Steven Cant, Tumwater, (360) 902-5495.

December 20, 2005

Gary Weeks
Director

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

WAC 296-54-507 Employer's responsibilities. The employer must comply with the requirements of all safety and health regulations and must:

(1) Provide safety training for (~~(new employees)~~) each employee.

(2) Take additional precautions to ensure safe logging operations when extreme weather or other extreme conditions create hazards. If the logging operation cannot be made safe, the work must be discontinued until safe to resume.

(3) Ensure that danger trees within reach of landings, rigging, buildings, or work areas are either fell before regular logging operations begin, or arrange work so that employees are not exposed to the related hazards.

(4) Develop and maintain a chemical hazard communication program as required by WAC 296-800-170. The program must provide information to all employees about hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

(5) Ensure that intoxicating beverages and narcotics are prohibited on or near the worksite. The employer must remove from the worksite any employee under the influence of alcohol or narcotics.

Note: Narcotics do not include prescription drugs taken under a doctor's direction if the use does not endanger any employee.

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

WAC 296-54-51140 Hand protection. (1) (~~(Each)~~) The employer must provide, and make sure that each employee handling wire rope ((or other rough materials must wear)) uses, hand protection that provides adequate protection from puncture wounds, cuts, and lacerations.

(2) Hand protection must be maintained in serviceable condition.

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

WAC 296-54-515 Accident prevention program. (1) The employer must develop a formal accident prevention program, tailored to the needs of the particular logging operation and to the type of hazards involved. The program must be implemented in a manner that is effective in practice.

(2) The accident prevention program must be in writing.

(3) The accident prevention program must cover at least the following elements:

(a) A safety training program that describes the employer's total safety program.

~~((a))~~ (b) How and when to report injuries;

~~((b))~~ (c) The location of first-aid supplies;

~~((c))~~ (d) Safe use, operation and maintenance of tools, machines and vehicles the employee uses or operates;

(e) How to report unsafe conditions and practices;

~~((e))~~ (f) The use and care of required personal protective equipment;

~~((e))~~ (g) An on-the-job review of the practices necessary to perform job assignments safely; and

~~((f))~~ (h) Recognition of safety and health hazards associated with the employee's specific work tasks, including using measures and work practices to prevent or control those hazards.

(4) The employer must document and maintain current records of required training, including:

- Who was trained;
- The date(s) of the training; and
- The signature of the trainer or the employer.

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

WAC 296-54-527 Seat belts. Each machine equipped with ROPS or FOPS and each vehicle (whether provided by the employee or the employer) must meet the following requirements:

(1) A seat belt must be provided for each vehicle, vehicle occupant, and all machines equipped with ROPS.

Note: An employer is not required to retrofit a ~~((machine or))~~ vehicle that was not equipped with seat belts at the time of manufacture.

(2) Each employee must use the available seat belt while the vehicle or machine is being operated.

~~((EXCEPTION: During road construction operations only, when road building machine operators are faced with a significant steep and deep cliff on the side, a seat belt is not required to be worn, if the employee's immediate supervisor approves of such action.))~~

(3) Each employee must securely and tightly fasten the seat belt to restrain the employee within the vehicle or machine cab.

(4) Each machine seat belt must meet the requirements of the Society of Automotive Engineers Standard SAE J386, June 1985, "Operator Restraint Systems for Off-Road Work Machines." Seat belts need not be provided for equipment that is designed only for stand-up operations.

(5) Seat belts must not be removed from any vehicle or machine. The employer must replace each seat belt that was removed from any vehicle or machine that was equipped with seat belts at the time of manufacture.

(6) Each seat belt must be maintained in a serviceable condition.

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

WAC 296-54-537 Chain saws. (1) Operators must inspect chain saws daily to ensure that handles and guards are in place, and controls and other moving parts are functional.

(a) Each chain saw placed into initial service after February 9, 1995, must be equipped with a chain brake and, shall otherwise meet the requirements of ANSI B175.1-1991 "Safety Requirements for Gasoline-Powered Chain Saws" and the requirements of this chapter;

(b) Each chain saw placed into service before February 9, 1995, must be equipped with a protective device that min-

imizes chain saw kickback, i.e., reduced kickback bar, chains, bar tip guard, or chain brake; ~~((and))~~

(c) No chain saw kickback device shall be removed or otherwise disabled; and

(d) Chain saws must be operated and adjusted in accordance with the manufacturer's instructions.

(2) Saw pinching and subsequent chain saw kickback must be prevented by using wedges, levers, guidelines, and saw placement, or by undercutting.

(3) Chain saws must be:

(a) Shutoff while fueling;

(b) Fueled outdoors at least ten feet from anyone smoking or from other potential sources of ignition; and

(c) Started at least 10 feet (3 m) from the fueling area.

(4) Chain saws must have a positive means of stopping the engine.

(5) Unless the carburetor is being adjusted, the chain saw must be shut off before any adjustments or repairs are made to the saw, chain, or bar.

(6) Using a chain saw with a faulty clutch is prohibited.

(7) The bar must be handled only when the chain saw motor is shut off.

(8) The drive end of the chain saw bar must be guarded.

(9) The chain saw must have an automatic throttle control that will return the engine to idle speed when the throttle is released.

Note: Idle speed is when the engine is running and the chain does not rotate on the bar.

(10) The chain saw must be started:

(a) With the chain brake engaged, unless the manufacturer prohibits; or

(b) On the ground, log or where otherwise firmly supported. Drop starting a chain saw is prohibited.

(11) A chain saw must be held with the thumbs and fingers of both hands encircling the handles during operation unless the employer demonstrates that a greater hazard is posed by keeping both hands on the chain saw in a specific situation.

(12) The chain saw must be carried in a manner that will prevent operator contact with the cutting chain and muffler.

(13) The chain saw must be shut off or at idle before the faller starts to retreat.

(14) The chain saw must be shut down or the chain brake engaged whenever a saw is carried:

(a) Further than 50 feet (15.2 m); or

(b) Less than 50 feet if conditions such as, but not limited to, the terrain, underbrush, and slippery surfaces, may create a hazard for an employee.

(15) Using a chain saw to cut directly over head is prohibited.

(16) The chain saw operator must be certain of footing before starting to cut. The chain saw must not be used in a position or at a distance that could cause the operator to become off-balance, to have unsteady footing, or to relinquish a firm grip on the saw.

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

WAC 296-54-557 Wire rope. (1) Wire rope must be of the same or better grade as originally recommended by the equipment manufacturer.

(2) Wire rope must be removed from service when any of the following conditions exist:

(a) In running ropes, six randomly distributed broken wires in one lay or three broken wires in one strand in one lay;

(b) Wear of one-third the original diameter of outside individual wires. Kinking, crushing, birdcaging, or any other damage resulting in distortion of the rope structure;

(c) Evidence of any heat damage from any cause;

(d) Reductions from nominal diameter of more than 3/64-inch for diameters to and including 3/4-inch, 1/16-inch for diameters 7/8-inch to 1-1/8-inch, inclusive, 3/32-inch for diameters 1-1/4-inches to 1-1/2-inches inclusive;

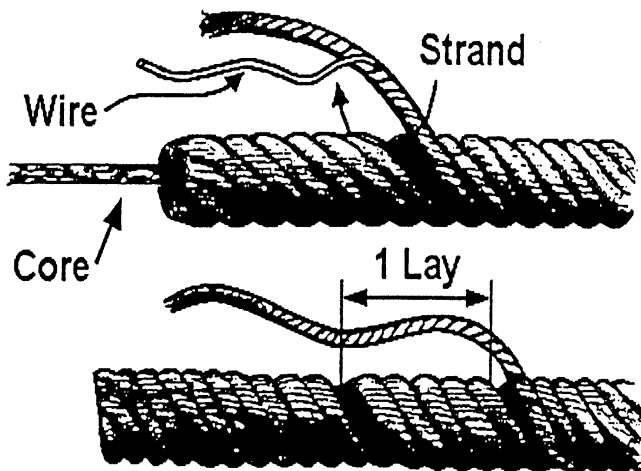
(e) In standing ropes, more than two broken wires in one lay in sections beyond end connections or more than one broken wire at an end connection;

(f) In standing ropes, when twelve and one-half percent of the wires are broken within a distance of one wrap (lay); and

(g) Corroded, damaged, or improperly applied end connections.

(3) Wire rope must be kept lubricated as conditions of use require.

((EXCEPTION: This section does not apply to chokers.))



Wire rope selection is an important element in cable logging.

WIRE ROPE

AMENDATORY SECTION (Amending WSR 04-14-028, filed 6/29/04, effective 1/1/05)

WAC 296-54-573 Logging machines—General. (1) All logging machinery must have speed limiting devices, safety stops, or emergency shut down devices or shut off valves, with the controls located so that in the event of an emergency, the prime mover may be shut down from a safe place.

(2) The floor and lower portion of cabs must be completely enclosed with solid material, except at entrances, to prevent the operator from being injured by obstacles which otherwise could enter the cab compartment.

(3) Machine operators must be experienced in operating the equipment they use.

EXCEPTION: Inexperienced employees may operate equipment to gain experience while in training but may do so only while working under the immediate supervision of an experienced authorized person.

((~~3~~)) (4) All machine controls must be marked as to their purpose in the operation of the machine.

((~~4~~)) (5) The rated capacity of any vehicle transporting a machine must not be exceeded.

((~~5~~)) (6) Machines must be loaded, secured, and unloaded in a manner that will not create a hazard for any employee.

Note: This requirement includes the loading, securing and unloading of a machine on and off a transport vehicle.

((~~6~~)) (7) The employer must not make any modifications or additions that affect the capacity or safe operation of the equipment without written approval of the manufacturer or a qualified engineer. If modifications or changes are made, the capacity, operation and maintenance instruction plates, tags, or decals, must be changed accordingly. The original safety factor of the equipment must never be reduced.

((~~7~~)) (8) Equipment must be classed and used according to the manufacturer's rating. Where low gear ratios or other devices are installed to increase the line pull in accordance with subsection ((~~6~~)) (7) of this section, the size of the rigging must be increased accordingly so that it will safely withstand the increased strains.

((~~8~~)) (9) Each machine, including any machine provided by an employee, must be maintained in serviceable condition and the following:

(a) Each machine must be inspected before initial use during each workshift. Defects or damage must be repaired or the unserviceable machine is replaced before beginning work.

(b) Operating and maintenance instructions must be available on the machine or in the area where the machine is being operated. Each machine operator and maintenance employee must comply with the operating and maintenance instructions.

(c) Each machine must be operated only from the operator's station or as otherwise recommended by the manufacturer.

(d) Employees must not be allowed to ride on any load.

((~~9~~)) (10) The yarding machine or vehicle, including its load, must be operated with safe clearance from all obstructions.

((~~10~~)) (11) While manual/mechanized falling is in progress, all logging machines must be operated at least two tree lengths away from trees being fell.

EXCEPTION: This provision does not apply to logging machines performing tree pulling operations or logging machines called upon by the cutter to ground hazard trees. All cutters must be notified of the logging machine entrance into the area and all falling within two tree lengths of the logging machine must stop.

~~((11))~~ (12) If a hydraulic or pneumatic storage device can move the moving elements such as, but not limited to, blades, buckets, saws and shears, after the machine is shut down, the pressure or stored energy from the element must be discharged as specified by the manufacturer.

~~((12))~~ (13) Loads must not exceed the rated capacity of the pallet, trailer, or other carrier.

~~((13))~~ (14) Boom-type logging machines must have a boom stop to prevent over-topping of the boom.

~~((14))~~ (15) Boom points of timber booms must be equipped with metal straps, plates, or other devices as needed to properly secure eyebolts and fittings used to support lines, blocks, or other rigging.

~~((15))~~ (16) Logging machine sleds or bases must be strong enough to withstand any stresses imposed upon them.

~~((16))~~ (17) Stationary logging machines must be securely anchored or otherwise stabilized to prevent unintended movement while yarding or skidding.

~~((17))~~ (18) Logging machines and their components must be securely anchored to their bases.

~~((18))~~ (19) Logging machines must be kept free of flammable waste materials and any materials that might contribute to slipping, tripping or falling.

~~((19))~~ (20) A safe and adequate means of access and egress to all parts of logging machinery where persons must go must be provided and maintained in a safe and uncluttered condition. Machine access systems, meeting the specifications of the Society of Automotive Engineers, SAE J185, June 1988, "Recommended Practice for Access Systems for Off-Road Machines," must be provided for each machine where the operator or any other employee must climb onto the machine to enter the cab or to perform maintenance. Walking and working surfaces of each machine and machine work station must have a slip-resistant surface to assure safe footing.

~~((20))~~ (21) Enclosed-type cabs installed on mobile logging machines must have two means of exit. One may be an emergency exit and be available for use at all times regardless of the position of the side arms or other movable parts of the machine. An easily removable window is acceptable as the emergency exit if it is large enough for an employee to readily exit.

EXCEPTION: ~~((Mobile logging machines))~~ Cable yarders manufactured before July 1, 1980 are not required to have two means of exit.

~~((21))~~ (22) Before leaving the operator's station of a machine, the operator must ensure the machine is secured as follows:

(a) The parking brake or brake locks must be applied;

(b) The transmission must be placed in the manufacturer's specified park position; and

(c) Each moving element such as, but not limited to, blades, buckets, saws and shears, must be lowered to the ground or otherwise secured.

~~((22))~~ (23) Storing employee property, tools, or other miscellaneous materials on or within three feet of any logging machine is prohibited if retrieving the items would expose an employee to the hazardous pinch point area between the rotating superstructure and the nonrotating undercarriage.

~~((23))~~ (24) Employees must approach the hazardous pinch point area only after informing the operator of that intent and receiving acknowledgment from the operator that the operator understands the employee's intention. All logging machines must be stopped while any employee is in the hazardous pinch point area.

~~((24))~~ (25) After adjustments or repairs are made, logging machines must not be operated until all guards are reinstalled, safety devices reactivated, and maintenance equipment removed.

~~((25))~~ (26) Fairleads must be properly aligned at all times and designed to prevent line damage.

~~((26))~~ (27) Employee(s) ~~((—except a mechanic or employee in training to operate equipment.))~~ must not ride on any mobile logging machine unless provided with seating, seat belts, and other protection equivalent to that provided for the operator.

EXEMPTION: Mechanics in the course of their job and trainees, operating under circumstances that minimize their exposure to dangerous situations, are exempt from this requirement.

~~((27))~~ (28) Riding on arches, reaches or turn of logs is prohibited.

~~((28))~~ (29) Tractors, skidders, arches, or logs being yarded by them must not run over or rub against anchored lines, tailhold stumps, or other rigging.

~~((29))~~ (30) Ends of lines attached to drums on logging machines must be secured by end attachments that develop the ultimate strength of the line unless three wraps of line are maintained on the drum at all times.

EXCEPTION: This does not apply to tractors or skidders.

~~((30))~~ (31) Wire rope must be wound on drum spools in a manner to prevent excessive wear, kinking, chafing or fouling.

~~((31))~~ (32) Guylines required in rigging spars or towers must be evenly spooled to prevent fouling.

~~((32))~~ (33) A guide pulley, tool, stick, iron bar or other mechanical or manual means must be used when guiding lines onto drums. Guiding lines onto drums with any part of the body in direct contact with the line is prohibited.

~~((33))~~ (34) A limit switch must be installed on electric-powered log loaders to prevent the lift arms from traveling too far in the event the control switch is not released in time.

~~((34))~~ (35) All forklift type log handling machines must be equipped with a grapple system and the arms must be closed whenever logs are being carried.

~~((35))~~ (36) When forklift machines are used to load, unload, or handle trailers, a positive means of holding the lifting attachment on the fork must be installed and used.

~~((36))~~ (37) Loads on forklift type log handling machines must be transported as low as safely operable without obstructing visibility.

~~((37))~~ (38) Guyline drum controls and outrigger controls must be separated and clearly identified in a manner that will prevent the engaging of the wrong control.

~~((38))~~ (39) Each machine must be equipped with guarding to protect employees from exposed moving elements, such as, but not limited to, shafts, belts, pulleys on chains, sprockets and gears in accordance with the requirements of this standard and chapter 296-806 WAC, Machine

safety. Guards must be in place at all times when machines are in use.

Note: This does not apply to lifting or yarding components such as, but not limited to, cable nip points, sheaves and blocks.

~~((39))~~ (40) Each machine used for debarking, limbing, and chipping must be guarded to protect employees from flying wood chunks, logs, chips, bark, limbs, and other material in accordance with the requirements of this standard and chapter 296-806 WAC, Machine safety.

~~((40))~~ (41) Grab rails must be provided and maintained in good repair on all walkways of stationary units elevated more than four feet.

~~((41))~~ (42) Towed equipment such as, but not limited to, skid pans, pallets, arches, and trailers, must be attached to each machine or vehicle to allow a full ninety degree turn; to prevent overrunning of the towing machine or vehicles; and to ensure that the operator is always in control of the towed equipment.

~~((42))~~ (43) Timbers used for masts or booms shall be straight-grained, solid, and capable of withstanding the working load.

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

WAC 296-54-57355 Logging machines—Protective structures for operators. (1) Each tractor, skidder, log stacker and mechanical felling device, such as tree shears or feller-buncher, placed into initial service after February 9, 1995, must be equipped with falling object protective structure (FOPS) and/or rollover protective structure (ROPS). The employer must replace FOPS or ROPS which have been removed from any machine.

EXCEPTION: This requirement does not apply to machines which are capable of 360 degree rotation.

(2) ROPS must be installed, tested, and maintained in accordance with the Society of Automotive Engineers SAE J1040, April 1988, "Performance Criteria for Rollover Protective Structures (ROPS) for Construction, Earthmoving, Forestry, and Mining Machines."

(3) The ROPS must be high enough and wide enough so that it will not impair the movements of the operator or prevent his immediate escape from the vehicle in emergencies and must allow as much visibility as possible. Clearance above the deck and the ROPS of the vehicle at exits must be at least fifty-two inches (1.3 meters).

(4) Certified roll-over protective systems must be identified by a metal tag permanently attached to the ROPS in a position where it may be easily read from the ground. The tag must be permanently and clearly stamped, etched or embossed indicating the name and address of the certifying manufacturer or registered professional engineer, the ROPS model number (if any) and the vehicle make, model or serial number the ROPS is designed to fit.

(5) Roll-over protective structure systems must be maintained in a manner that will preserve their original strength. Welding must be performed by qualified welders only. (A qualified welder is defined under "welder qualification" in American Welding Society A.W.S. A3.0-69.)

(6) FOPS structures must be installed, tested and maintained according to:

(a) The society of automotive engineers SAE J231-1971, "minimum performance criteria for falling object protective structures (FOPS) prior to February 9, 1995."

(b) Society of automotive engineers SAE J231, January 1981, "minimum performance criteria for falling object protective structures (FOPS) for each tractor, skidder, log stacker, log loader and mechanical felling device, such as tree shears or faller-buncher, placed into initial service after February 9, 1995."

(7) The employer must replace FOPS that have been removed from any machine.

(8) Vehicles with ROPS or FOPS as required in subsection (1) of this section, must comply with the society of automotive engineers SAE J397a-1972, "deflection limiting volume for laboratory evaluation of roll-over protective structures (ROPS) and falling object protective structures (FOPS) of construction and industrial vehicles." Vehicles placed into initial service after February 9, 1995, must meet the requirements of SAE J397-1988.

(9) The opening in the rear of the ROPS on the crawler or rubber-tired tractors (skidders) must be covered with 1/4-inch diameter woven wire having not less than 1-1/2 inches or more than 2-inch mesh, or material which will afford equivalent protection for the operator.

(a) The covering must be attached to the structural members so that enough clearance is provided between the screen and the back of the operator.

(b) Structural members must be free from projections that would tend to puncture or tear flesh or clothing.

(c) Suitable safeguards or barricades must be installed, in addition to the screen, to protect the operator when there is a possibility of being struck by any material that could enter from the rear.

(10) Crawler and rubber-tired tractors (skidders) working in areas where limbs or brush may endanger the operator must be guarded.

(a) Shear or deflector guards must be installed on each side of the vehicle at an angle leading forward and down from the top front edge of the canopy of the vehicle, which will tend to slide the brush or limbs up and over the top of the canopy.

(b) Open mesh material with openings of a size that will reject the entrance of an object larger than 1-3/4-inches in diameter, must be extended forward as far as possible from the rear corners of the cab sides to give the maximum protection against obstacles, branches, etc., entering the cab area.

(c) Deflectors must also be installed ahead of the operator to deflect whipping saplings and branches.

(d) Deflectors must be located so as not to impede entrance to or exit from the compartment area.

(e) The floor and lower portion of the cab must be completely enclosed with solid material, except at entrances, to prevent the operator from being injured by obstacles which otherwise could enter the cab compartment.

(11) ~~((Enclosures for agricultural and industrial tractors manufactured after September 1, 1972, must be constructed, designed and installed as detailed in the society of automotive engineers technical report J168-))~~ Each machine manu-

factured after August 1, 1996, must have a cab that is fully enclosed with mesh material with openings no greater than 2 inches (5.08 cm) at its lease dimension. The cab may be enclosed with other material(s) where the employer demonstrates such material(s) provides equivalent protection and visibility.

EXCEPTION: Equivalent visibility is not required for the lower portion of the cab where there are control panels or similar obstructions in the cab, or where visibility is not necessary for safe operation of the machine.

Enclosures for agricultural and industrial tractors manufactured after September 1, 1972, must be constructed, designed and installed as detailed in the society of automotive engineers technical report J168.

(12) Overhead protection and other barriers must be installed to protect the operator from lines, limbs, and other moving materials on or over all loading or skidding machines and on all yarding machines where the operator's station is mounted on board. The overhead covering of each cab must be of solid material and extend over the entire canopy. A skylight in a logging machine must be made of safety glass or provide equivalent protection.

Note: This does not apply to self-loaders.

Reference: For requirements relating to overhead protection on forklifts, see chapter 296-863 WAC, Forklifts and other powered industrial trucks.

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

WAC 296-54-581 Helicopter logging—General. (1)

Prior to daily logging operations, a briefing must be conducted. The briefing must set forth the plan of operation for the pilot(s) and ground personnel. Anytime a change in operating procedure is necessary, affected personnel must be notified.

(2) Employees and equipment must remain in the clear and employees must never be under a suspended load.

(3) Employees must not work under hovering craft except for that limited period of time necessary to guide, secure, hook/unhook loads, and perform maintenance/inspections or other related job duties.

(4) The location of the drop zone, decking areas, loading areas, and designated safety zones must be established by a pilot and a responsible supervisor taking into consideration current operating conditions.

(5) Personal protective equipment.

(a) Employees must wear high visibility hard hats secured by a chinstrap.

(b) Employees hooking and receiving the load must wear high visibility vests or outer garments.

(6) Whenever approaching or leaving a support helicopter with blades rotating, employees must:

(a) Remain in full view of the pilot and keep in a crouched position;

(b) Obtain a visual or audible acknowledgment from the pilot before entering or exiting the helicopter;

(c) Avoid the area from the cockpit or cabin rearward unless authorized by the helicopter company to work there; and

(d) Exercise special caution to keep clear of rotors when visibility is reduced.

(7) Before approaching or departing the service area for maintenance, visual and/or audible communication must be established.

(8) There must be reliable communication available between the helicopter, woods crew, landing, and service areas. In the absence of radio communication there must be a designated signal person.

(9) Developed hand signals must be clearly communicated and understood by all persons working in the area who may be affected by their use.

(10) Riding the load or hook of a helicopter is prohibited except in an emergency rescue situation.

(11) Unauthorized employees must not be allowed to approach within fifty feet of the helicopter when the rotor blades are turning.

(12) Every practical precaution must be taken to provide for the protection of employees from flying objects in the rotor downwash.

(13) Loads must be properly slung. Tag lines used by ground personnel to position loads must be of a length that will not permit their being drawn up into rotors. Pressed sleeve, swaged eyes, or equivalent means must be used for all freely suspended loads to prevent hand splices from spinning open or cable clamps from loosening.

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

WAC 296-54-593 Log unloading, booms, and rafting grounds—Storage and sorting areas—General. (1) At least two persons must be present for all storing, sorting, or boom work, except for boomboat operations.

(2) Employees working on, over, or along water, where there is a danger of drowning, must be provided with and wear approved personal flotation devices.

(a) Employees are not considered exposed to the danger of drowning when:

(i) Employees work behind standard height and strength guardrails;

(ii) Employees work inside operating cabs or stations that will prevent accidentally falling into the water; or

(iii) Employees wear approved safety belts with lifeline attached to prevent falling into the water.

(b) Before and after each use, personal flotation devices must be inspected for defects that would reduce their designed effectiveness. Using a defective personal flotation device is prohibited.

(c) An approved personal flotation device must be approved by the United States Coast Guard as a Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or their equivalent, as required in 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard table of devices equivalent to personal flotation devices). Ski belt or inflatable personal flotation devices are prohibited.

(3) In operations where regular logging machinery, rigging, etc., is used, the applicable rules apply.

~~((3))~~ (4) The employer must provide and ensure the use of artificial lights where employees work between the hours

of sunset and sunrise. The lights must be located in a manner that will:

- Be reasonably free of glare;
- Provide uniform distribution of illumination; and
- Avoid sharply defined shadows.

~~((4))~~ (5) On all log dumps, adequate power for the unloading method used must be provided. All machines used for hoisting, reloading, or lowering must be of an approved design and have enough power to control or hold the maximum load imposed in mid-air.

~~((5))~~ (6) Methods of unloading logs must be arranged and used in a manner to provide full protection to all employees.

~~((6))~~ (7) Binders must not be released from any load until an effective safeguard is provided.

~~((7))~~ (8) All mobile log handling machines must be equipped with a means to prevent the logs from accidentally leaving the forks, and it must be used.

~~((8))~~ (9) The operator of the unloading machine must have an unobstructed view of the unloading area or must make certain no one is in the area where the logs are to be unloaded. Rearview mirrors must be installed on mobile log handling equipment to assist the operator in determining that the area behind the machine is clear before backing up.

~~((9))~~ (10) Unloading lines must be arranged so that it is not necessary for an employee to attach them on the pond or dump side of the load.

~~((10))~~ (11) Life rings with a minimum of ninety feet of 1/4-inch line with a minimum breaking strength of five hundred pounds attached, must be provided at convenient points adjacent to water that is five feet or more in depth. Life rings must be a minimum of thirty inches outside diameter and seventeen inches inside diameter and be maintained so as to retain a thirty-two pound positive buoyancy.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-54-51180 Personal flotation devices.

WSR 06-01-110
EXPEDITED RULES
DEPARTMENT OF AGRICULTURE

[Filed December 21, 2005, 11:54 a.m.]

Title of Rule and Other Identifying Information: Chapter 16-570 WAC, Rapeseed production and establishment of districts.

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 Dannie McQueen, Washington State Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, fax (360) 902-2092, dmcqueen@agr.wa.gov, AND RECEIVED BY February 22, 2006.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 15.65.055 and 15.66.025 both state that the director of the department of agriculture shall have regulatory authority on the production of rapeseed by variety and geographical location until such time as a rapeseed commodity commission is formulated. A commission has been formed, named the Washington state canola commission. Therefore, the department proposes to repeal chapter 16-570 WAC as the regulatory authority has passed from the department to the canola commission.

Reasons Supporting Proposal: When the canola commission was formed, the regulatory authority regarding the production of canola and/or rapeseed transferred to the canola commission. Repealing chapter 16-570 WAC removes the administrative code and reduces confusion about its authority. The department has been and will continue its communication regarding this matter with affected stakeholders.

Statutory Authority for Adoption: Chapters 15.65 and 15.66 RCW.

Statute Being Implemented: RCW 15.65.055 and 15.66.025.

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

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dannie McQueen, P.O. Box 42560, Olympia, WA 98504-2560, (360) 902-1809.

December 21, 2005
William Brookreson
Deputy Director