

WSR 09-13-006
EXPEDITED RULES
RECREATION AND CONSERVATION OFFICE
(Salmon Recovery Funding Board)

[Filed June 3, 2009, 4:09 p.m.]

Title of Rule and Other Identifying Information: WAC 420-04-020, salmon recovery funding board, organization and 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 Megan Duffy, Recreation and Conservation Office, P.O. Box 40917, Olympia, WA 98501, AND RECEIVED BY September 1, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To correct WAC to meet statutory directive. It will change the term for voting salmon recovery funding board members from three years to four years to meet RCW 77.85.110.

Reasons Supporting Proposal: Meets statutory directive in RCW 77.85.110 regarding terms for voting members of the salmon recovery funding board.

Statutory Authority for Adoption: Chapter 77.85 RCW.

Statute Being Implemented: RCW 77.85.110.

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

Name of Proponent: Recreation and conservation office, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Duffy, Olympia, Washington, (360) 902-3000; Implementation and Enforcement: Rebecca Connolly, Olympia, Washington, (360) 902-3000.

June 3, 2009

Megan Duffy

Policy and
Planning Specialist

AMENDATORY SECTION (Amending WSR 01-04-052, filed 2/2/01, effective 3/5/01)

WAC 420-04-020 Organization and operations. The board:

(1) Is an unsalaried body of ten members. Five members are citizens appointed by the governor from the public-at-large, with the consent of the senate, for a term of ~~((three))~~ four years each. The other members are the:

- (a) Commissioner of public lands;
- (b) Director of the department of fish and wildlife;
- (c) Director of the state conservation commission;
- (d) Director of the department of ecology; and
- (e) Secretary of transportation (or the designees of these individuals).

The five citizen members, including the chair, are voting members. The chair of the board is appointed by the governor from among the five citizen members.

(2) Is authorized and obligated to administer grant programs for salmon recovery, and related programs and policies.

(3) Performs and accomplishes work by a staff under the supervision of the IAC director appointed by the governor.

(4)(a) Conducts regular meetings, pursuant to RCW 42.30.075, according to a schedule it adopts in an open public meeting.

(b) May conduct special meetings at any time, pursuant to RCW 42.30.080, if called by the chair.

(c) Maintains an official record of its meetings in a recorded audio format, unless written minutes are otherwise indicated for logistical reasons.

(5) Defines a quorum as three of its voting members, with a preference that at least two of the agency members shall also be present.

(6) Adopts parliamentary meeting procedure generally as described in *Robert's Rules of Order*. Only voting members may make motions or formal amendments, but agency members may request the chair for leave to present a proposal for board consideration.

WSR 09-13-039
EXPEDITED RULES
SECRETARY OF STATE

[Filed June 10, 2009, 2:47 p.m.]

Title of Rule and Other Identifying Information: Address confidentiality program (ACP), chapter 434-840 WAC.

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 Megan Moreno, Office of the Secretary of State, P.O. Box 40220, Olympia, WA 98504-0220, AND RECEIVED BY August 18, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: An incorrect RCW citation needs to be fixed in WAC 434-840-080. WAC 434-840-080(4) refers to RCW 40.24.030 (1)(b). Due to a law change in 2008 (SB 6339), the reference is no longer correct. The reference will be changed to RCW 40.24.030. More accurate information is the only anticipated effect.

Reasons Supporting Proposal: An inaccurate citation makes the WAC less user-friendly. The more general reference to the RCW will help to lead interested parties to the correct information while also enabling the reference to sustain future changes without the need for correction.

Statutory Authority for Adoption: RCW 40.24.090.

Statute Being Implemented: WAC 434-840-080.

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

Name of Proponent: Office of the secretary of state, governmental.

Name of Agency Personnel Responsible for Drafting: Megan Moreno, 250 Legislative Building, Olympia, WA 98504, (360) 902-4141; Implementation and Enforcement: Missy Deinlein, P.O. Box 40220, Olympia, WA 98504, (360) 753-2972.

June 10, 2009

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 05-13-059, filed 6/9/05, effective 7/10/05)

WAC 434-840-080 Service of process. (1) The secretary of state shall be an agent of the program participant upon whom any summons, writ, notice, demand, or process may be served.

(2) Service on the secretary of state of any such summons, writ, demand, notice, or process shall be made by mailing to the substitute address or by delivering to the secretary of state at his/her office in Olympia, WA: (a) Two copies of the summons, writ, notice, demand, or process; and (b) twenty-five dollars service-of-process fee for each action or document filed.

(3) If a summons, writ, notice, demand, or process is served on the secretary of state, the secretary of state shall immediately forward a copy to the program participant at the participant's current mailing address shown on the records.

(4) The secretary of state shall maintain in the program participant's file, a record of all summonses, writs, notices, demands, and processes served upon the secretary of state for that participant under RCW 40.24.030 ~~((1)(b))~~, which shall include the date of such service and the secretary of state's action.

WSR 09-13-081
EXPEDITED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed June 16, 2009, 10:47 a.m.]

Title of Rule and Other Identifying Information: Chapter 296-307 WAC, Part I, worker protection standards.

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 Joshua Swanson, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY August 17, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The division of occupational safety and health (DOSH) is proposing to change existing language in chapter 296-307 WAC, Part I, worker protection standard to adopt federal changes for use of glove liners and also to update references to labor and industries regulations to current WAC numbers.

Reasons Supporting Proposal: The language being proposed incorporates changes from the federal EPA Worker Protection Standards into state rules in order to be consistent with other requirements in Washington state law. This proposal is being adopted simultaneously in conjunction with rule making by the Washington state department of agriculture as statutorily required for these pesticide protection rules.

Statutory Authority for Adoption: RCW 49.17.050.

Statute Being Implemented: Chapter 49.17 RCW.

Rule is necessary because of federal law, 40 C.F.R. Part 170.

Name of Proponent: Department of labor and industries, division of occupational safety and health, governmental.

Name of Agency Personnel Responsible for Drafting: Tracey Spencer, Tumwater, Washington, (360) 902-5530; Implementation and Enforcement: Steve Cant, Tumwater, Washington, (360) 902-9166.

June 16, 2009

Judy Schurke

Director

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

WAC 296-307-107 Federal worker protection standards—Washington state department of agriculture. This ~~((part))~~ chapter contains the federal Environmental Protection Agency worker protection standards as listed in 40 CFR, Part 170. Revisions to the federal language have been incorporated into this chapter in order to be consistent with other requirements of Washington state law. These rules are adopted in conjunction with rules adopted by the Washington state department of ~~((agriculture))~~ labor and industries in chapter ~~((16-233))~~ 296-307 WAC, Part I.

AMENDATORY SECTION (Amending WSR 09-07-098, filed 3/18/09, effective 5/1/09)

WAC 296-307-12020 Entry restrictions—Standards for workers—40 CFR, § 170.112. (1) General restrictions.

(a) After the application of any pesticide on an agricultural establishment, the agricultural employer shall not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired, except as provided in this section.

(b) Entry-restricted areas in greenhouses are specified in column D in Table 2 under WAC 296-307-12015 (3)(d).

(c) When two or more pesticides are applied at the same time, the restricted-entry interval shall be the longest of the applicable intervals.

(d) The agricultural employer shall assure that any worker who enters a treated area under a restricted-entry interval as permitted by subsections (3), (4), and (5) of this section uses the personal protective equipment specified in the product labeling for early entry workers and follows any other requirements on the pesticide labeling regarding early entry.

(2) Exception for activities with no contact. A worker may enter a treated area during a restricted-entry interval if the agricultural employer assures that both of the following are met:

(a) The worker will have no 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; and

(b) No such entry is allowed until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by WAC 296-307-12015 (3)(c) or in the labeling have been met.

(3) Exception for short-term activities. A worker may enter a treated area during a restricted-entry interval for short-term activities if the agricultural employer assures that the following requirements are met:

(a) No hand labor activity is performed.

(b) The time in treated areas under a restricted-entry interval for any worker does not exceed one hour in any twenty-four-hour period.

(c) No such entry is allowed for the first four hours following the end of the application, and no such entry is allowed thereafter until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by WAC 296-307-12015 (3)(c) or in the labeling have been met.

(d) The personal protective equipment specified on the product labeling for early entry is provided to the worker. Such personal protective equipment shall conform to the following standards:

(i) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

(ii) Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

(iii) When "chemical-resistant" personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

(iv) When "waterproof" personal protective equipment is specified by the product labeling, it shall be made of material

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

(v) When a "chemical-resistant suit" is specified by the product labeling, it shall be a loose-fitting, one-piece or two-piece, chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(vi) When "coveralls" are specified by the product labeling, they shall be a loose-fitting, one-piece or two-piece garment, such as a cotton or cotton and polyester coverall, that covers, at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over a layer of clothing. If a chemical-resistant suit is substituted for coveralls, it need not be worn over a layer of clothing.

(vii) (A) Gloves shall be of the type specified ((by)) on the pesticide product labeling. Gloves ((or glove linings)) made of leather, cotton, or other absorbent materials must not be worn for early-entry activities, unless gloves made of these materials are listed ((on the product labeling)) as acceptable for such use on the product labeling. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable ((for tasks with roses or other plants with sharp thorns)), leather gloves may be worn ((over chemical-resistant liners)) on top of chemical-resistant gloves. However, once leather gloves have been worn for this use, ((thereafter they shall be worn only with chemical-resistant liners and)) they shall not be worn thereafter for any other ((use)) purpose, they shall only be worn over chemical-resistant gloves.

(B) 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.

(C) 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 shall not be reused. Contaminated liners must be disposed of in accordance with any federal, state, or local regulations.

(viii) When "chemical-resistant footwear" is specified by the product labeling, it shall be one of the following types of footwear: Chemical-resistant shoes, chemical-resistant boots, or chemical-resistant shoe coverings worn over shoes or boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable for workers, then leather boots may be worn in such terrain.

(ix) When "protective eyewear" is specified by the product labeling, it shall be one of the following types of eyewear: Goggles; face shield; safety glasses with front, brow, and temple protection; or a full-face respirator.

(x) When "chemical-resistant headgear" is specified by the product labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(e) The agricultural employer shall assure that the worker, before entering the treated area, either has read the product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, personal protective equipment specified for early entry, and any other labeling requirements related to safe use.

(f) The agricultural employer shall assure that:

(i) Workers wear the personal protective equipment correctly for its intended purpose and use personal protective equipment according to manufacturer's instructions.

(ii) 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.

(iii) Personal protective equipment that cannot be cleaned properly is disposed of in accordance with any applicable federal, state, and local regulations.

(iv) All personal protective equipment is cleaned according to manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

(v) Before being stored, all clean personal protective equipment is dried thoroughly or is put in a well-ventilated place to dry.

(vi) Personal protective equipment contaminated with pesticides is kept separately and washed separately from any other clothing or laundry.

(vii) Any person who cleans or launders personal protective equipment is informed that such equipment may be contaminated with pesticides, of the potentially harmful effects of exposure to pesticides, and of the correct way(s) to handle and clean personal protective equipment and to protect themselves when handling equipment contaminated with pesticides.

(viii) All clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(ix) Each worker is instructed how to put on, use, and remove the personal protective equipment and is informed about the importance of washing thoroughly after removing personal protective equipment.

(x) 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.

(xi) Workers have a clean place(s) away from pesticide-storage and pesticide-use areas for storing personal clothing not in use; putting on personal protective equipment at the start of any exposure period; and removing personal protective equipment at the end of any exposure period.

(g) When personal protective equipment is required by the labeling of any pesticide for early entry, the agricultural employer shall assure that no worker is allowed or directed to perform the early entry activity without implementing, when appropriate, measures to prevent 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.

(h) During any early entry activity, the agricultural employer shall provide a decontamination site in accordance with WAC 296-307-12050.

(i) The agricultural employer shall not allow or direct any worker to wear home or to take home personal protective equipment contaminated with pesticides.

(4) Declaration of an agricultural emergency.

(a) The director of the Washington state department of agriculture may declare the existence of circumstances causing an agricultural emergency on a particular establishment or establishments.

(b) The director may declare an agricultural emergency based on the reasonably expected certainty of circumstances occurring based on weather or other forecasts that would create conditions that would normally be anticipated to cause an agricultural emergency.

(c) The agricultural employer may determine if the establishment under his/her control is subject to the agricultural emergency declared by the director.

(d) Emergency repair of equipment that is in use and sited within a pesticide treated area under a restricted-entry interval, such as frost protection devices, shall be considered to be an agricultural emergency. ~~((The conditions in WAC 16-228-655 shall be met.))~~

(e) Activities that require immediate response such as fire suppression, relocation of greenhouse plants due to power failure, and similar conditions, shall be considered to be agricultural emergencies. ~~((The conditions in WAC 16-228-655 shall be met.))~~

(5) Agricultural activities permitted under an agricultural emergency.

(a) A worker may enter a pesticide treated area under a restricted-entry interval in an agricultural emergency to perform tasks, including hand labor tasks, necessary to mitigate the effects of the agricultural emergency if the agricultural employer assures that all the following requirements are met:

(i) No entry is permitted for the first four hours after the pesticide application or the minimum reentry interval allowed by EPA for that product, whichever is less;

(ii) The personal protective equipment specified on the product labeling for early entry is provided to the worker;

(iii) The agricultural employer shall assure that the worker, before entering the treated area, either has read the product labeling or has been informed, in a manner the worker can understand, of all labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, personal protective equipment specified for early entry, and any other labeling requirements related to safe use;

(iv) The agricultural employer shall assure that the worker wears the proper PPE and that the PPE is in operable condition and that the worker has been trained in its proper use;

(v) The agricultural employer shall assure that measures have been taken, when appropriate, to prevent 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.

(vi) A decontamination site has been provided in accordance with EPA regulations;

(vii) The agricultural employer shall not allow or direct any worker to wear home or take home personal protective equipment contaminated with pesticides.

(b) If the agricultural emergency is due to equipment failure, then the agricultural employer shall assure that all the requirements in subsection (1) of this section are met plus the following additional requirement. The only permitted activity until the restricted-entry interval has elapsed is equipment repair that would mitigate the effect of the equipment failure.

(6) Recordkeeping required for agricultural emergencies.

(a) If the employer declares that his/her establishment is affected by an agricultural emergency and that activities regulated by the worker protection standard have been performed, the employer shall keep the following records for seven years from the date of the agricultural emergency:

- (i) Date of the agricultural emergency;
- (ii) Time of the agricultural emergency, start and end;
- (iii) Reason for the agricultural emergency, such as frost, fire, equipment failure, etc.;
- (iv) Crop/site;
- (v) Pesticide(s) - name, EPA number, REI;
- (vi) Name, date, time of entry and exit of early entry person(s);

(vii) Estimated potential of economic loss which would have occurred had no early entry been allowed.

(b) Records shall be completed within twenty-four hours of the early entry exposure and be available to the department and/or department of health and/or medical facility or treating physician if requested by the above or the employee.

(7) Exception to entry restrictions requiring EPA approval. EPA may in accordance with 40 CFR, Part 170.112 (e) grant an exception from the requirements of this section. A request for an exception must be submitted to the Director, Office of Pesticide Programs (H-7501C), Environmental Protection Agency, 401 "M" Street SW, Washington, DC 20460 and must be accompanied by two copies of the information specified in 40 CFR, Part 170.112(e).

AMENDATORY SECTION (Amending WSR 09-07-098, filed 3/18/09, effective 5/1/09)

WAC 296-307-13045 Personal protective equipment—Standards for pesticide handlers—40 CFR, § 170.240. (1) Requirement. Any person who performs tasks as a pesticide handler shall use the clothing and personal protective equipment specified on the labeling for use of the product.

(2) Definition.

(a) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection

devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

(b) Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

(3) Provision. When personal protective equipment is specified by the labeling of any pesticide for any handling activity, the handler employer shall provide the appropriate personal protective equipment in clean and operating condition to the handler.

(a) When "chemical-resistant" personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

(b) When "waterproof" personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(c) When a "chemical-resistant suit" is specified by the product labeling, it shall be a loose-fitting, one-piece or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(d) When "coveralls" are specified by the product labeling, they shall be a loose-fitting, one-piece or two-piece garment, such as a cotton or cotton and polyester coverall, that covers, at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over another layer of clothing.

(e)(i) Gloves shall be of the type specified ((by)) on the pesticide product labeling. Gloves ((or glove liners)) made of leather, cotton, or other absorbent material shall not be worn ((for handling activities)) while mixing, loading, applying, or otherwise handling pesticides, unless ((such)) gloves made of these materials are listed ((on the product labeling)) as acceptable for such use on the 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 shall not be reused. Contaminated liners must be disposed of in accordance with any federal, state, or local regulations.

(f) When "chemical-resistant footwear" is specified by the product labeling, 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) When "protective eyewear" is specified by the product labeling, 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) When a "chemical-resistant apron" is specified by the product labeling, an apron that covers the front of the body from mid-chest to the knees shall be worn.

(i) When a respirator is specified by the product labeling, it shall be appropriate for the pesticide product used and for the activity to be performed. The handler employer shall assure that the respirator fits correctly by using the procedures consistent with chapter 296-307 WAC, Part Y-5. If the label does not specify the type of respirator to be used, it shall meet the requirements of chapter 296-307 WAC, Part Y-5. The respiratory protection requirements of chapter 296-307 WAC, Part Y-5, shall apply.

(j) When "chemical-resistant headgear" is specified by the product labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(4) Exceptions to personal protective equipment specified on product labeling.

(a) Body protection.

(i) A chemical-resistant suit may be substituted for "coveralls," and any requirement for an additional layer of clothing beneath is waived.

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

(b) 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.

(c) Gloves. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during handling activities with roses or other 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 shall be worn only with chemical-resistant liners and they shall not be worn for any other use.

(d) Closed systems. If handling tasks are performed using properly functioning systems that enclose the pesticide to prevent it from contacting handlers or other persons, and if such systems are used and are maintained in accordance with that manufacturer's written operating instructions, exceptions to labeling-specified personal protective equipment for the handling activity are permitted as provided in (d)(i) and (ii) of this subsection.

(i) Persons 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, socks, chemical-resistant apron, and any protective gloves specified on the labeling for handlers for the labeling-specified personal protective equipment.

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

(iii) Persons using a closed system that operates under pressure shall wear protective eyewear.

(iv) Persons using a closed system shall have all labeling-specified personal protective equipment immediately available for use in an emergency.

(e) Enclosed cabs. 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 (e)(i) through (iv) of this subsection.

(i) Persons occupying 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.

(ii) 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 and by the Washington state department of labor and industries 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 dust/mist-filtering respirator is specified on the pesticide product labeling, it must be worn.

(iii) 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 and by the Washington state department of labor and industries to provide respiratory protection equivalent to or greater than the vapor-removing or gas-removing respirator specified on pesticide product labeling may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If an air-supplying respirator or a self-contained breathing apparatus (SCBA) is specified on the pesticide product labeling, it must be worn.

(iv) Persons occupying an enclosed cab shall have all labeling-specified personal protective equipment immediately available and stored in a chemical-resistant container, such as a plastic bag. They shall wear such personal protective equipment if it is necessary to exit the cab and contact pesticide-treated surfaces in the treated area. Once personal protective equipment is worn in the treated area, it must be removed before reentering the cab.

(f) Aerial applications.

(i) Use of gloves. The wearing of chemical-resistant gloves ((shall be worn)) when entering or leaving an aircraft ((contaminated by pesticide residues)) used to apply pesticides is optional, unless such gloves are required on the pesticide product labeling. ((H)) If gloves are brought into the

cockpit of an aircraft that has been used to apply pesticides, the gloves shall be kept in an enclosed container to prevent contamination of the inside of the cockpit.

(ii) Open cockpit. Persons occupying an open cockpit shall use the personal protective equipment specified in the 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 visor may be substituted for protective eyewear.

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

(g) Crop advisors. Crop advisors entering treated areas while a restricted-entry interval is in effect may wear the personal protective equipment specified on the pesticide labeling for early entry activities instead of the personal protective equipment specified on the pesticide labeling for handling activities, provided:

(i) Application has been completed for at least four hours.

(ii) Any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by WAC 296-307-12015 (3)(c) or in the labeling have been met.

(5) Use of personal protective equipment.

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

(b) The handler employer shall assure 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.

(6) Cleaning and maintenance.

(a) The handler employer shall assure 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 shall be washed thoroughly in detergent and hot water.

(b) If any personal protective equipment cannot be cleaned properly, the handler employer shall dispose of the personal protective equipment in accordance with any applicable federal, state, and local regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with an undiluted pesticide that has the signal word DANGER or WARNING on the label shall be not be reused.

(c) The handler employer shall assure that contaminated personal protective equipment is kept separately and washed separately from any other clothing or laundry.

(d) The handler employer shall assure that all clean personal protective equipment shall be either dried thoroughly before being stored or shall be put in a well ventilated place to dry.

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

(f) The handler employer shall assure that when dust/mist filtering respirators are used, the filters shall be replaced:

(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 shall assure that when gas-removing or vapor-removing respirators are used, the gas-removing or vapor-removing canisters or cartridges shall be replaced:

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

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

(iii) 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 shall inform any person who cleans or launders personal protective equipment:

(i) That such equipment may be contaminated with pesticides.

(ii) Of the potentially harmful effects of exposure to pesticides.

(iii) Of the correct way(s) to clean personal protective equipment and to protect themselves when handling such equipment.

(i) The handler employer shall assure that handlers have a clean place(s) away from pesticide storage and pesticide use areas where they may:

(i) Store personal clothing not in use.

(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 shall not allow or direct any handler to wear home or to take home personal protective equipment contaminated with pesticides.

(7) Heat-related illness. When the use of personal protective equipment is specified by the labeling of any pesticide for the handling activity, the handler employer shall assure that no handler is allowed or directed to perform the handling activity unless appropriate measures are taken, if necessary, to prevent 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.

WSR 09-13-095

EXPEDITED RULES

HOME CARE

QUALITY AUTHORITY

[Filed June 16, 2009, 4:25 p.m.]

Title of Rule and Other Identifying Information: The agency is amending WAC 257-10-130, denying an individual provider placement of the referral registry.

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 Lisa Livingston, Rules Coordinator, Home Care Quality Authority, P.O. Box 40940, Olympia, WA 98504, e-mail llivingston@hcqa.wa.gov, fax (360) 493-9384, AND RECEIVED BY August 17, 2009.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposed rule is to remove reference to chapter 43.43 RCW which does include all of the disqualifying crime information that is considered when a background check is processed. The new language is more comprehensive in referencing all appropriate criteria from the secretary's list of crimes and negative actions.

Reasons Supporting Proposal: The anticipated effect will be to eliminate potential confusion and improve consistency with other WAC, statute and policies related to disqualifying crimes criteria.

Statutory Authority for Adoption: RCW 74.39A.280(3) Authority duties, Title 74 RCW.

Statute Being Implemented: RCW 74.39A.280(3).

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

Name of Proponent: Home care quality authority, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Lisa Livingston, P.O. Box 40940, Olympia, WA 98504, (360) 493-9380; **Enforcement:** Rick Hall, P.O. Box 40940, Olympia, WA 98504, (360) 493-9353.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Aligning language to be consistent with other WAC, statute and policies related to background check criteria will reduce confusion and improve clarification for denying individual providers placement on the referral registry.

June 16, 2009

Rick Hall

Executive Director

AMENDATORY SECTION (Amending WSR 09-10-005, filed 4/22/09, effective 5/23/09)

WAC 257-10-130 What information may be considered cause for denying an individual provider or prospective individual provider placement on the referral registry? An individual provider may be denied placement on the referral registry for the following reasons:

(1) A background check that results in disqualifying crimes based on ~~((criteria as specified in chapter 43.43 RCW))~~ appropriate department of social and health services list of crimes and negative actions.

(2) Lack of disclosure on background authorization form.

(3) Inclusion on any ~~((state))~~ DSHS abuse and neglect directory.

(4) Information that a current and valid protective order exists and was issued in the state of Washington barring con-

tact with children, vulnerable adults or persons with disabilities.

(5) A reasonable, good faith belief that an individual provider or prospective individual provider is unable to meet the care needs of consumers.

~~((6) The background check reveals an offense or pattern of offenses that the executive director determines may put consumers at risk.))~~