

**WSR 17-07-028****WITHDRAWAL OF PROPOSED RULES  
HEALTH CARE AUTHORITY**

(By the Code Reviser's Office)

[Filed March 7, 2017, 4:22 p.m.]

WAC 182-526-0150, proposed by the health care authority in WSR 16-17-093, appearing in issue 16-17 of the Washington State Register, which was distributed on September 7, 2016, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 17-07-029****WITHDRAWAL OF PROPOSED RULES  
HEALTH CARE AUTHORITY**

(By the Code Reviser's Office)

[Filed March 7, 2017, 4:26 p.m.]

WAC 182-548-1400, 182-548-1450, 182-549-1400 and 182-549-1450, proposed by the health care authority in WSR 16-17-145, appearing in issue 16-17 of the Washington State Register, which was distributed on September 7, 2016, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 17-07-031****PROPOSED RULES  
HEALTH CARE AUTHORITY**

(Washington Apple Health)

[Filed March 8, 2017, 9:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-16-116.

Title of Rule and Other Identifying Information: WAC 182-550-2531 Requirements for becoming an acute PM&R provider and 182-550-2551 How a client qualifies for acute PM&R services.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf) or directions can be obtained by calling (360) 725-1000), on April 25, 2017, at 10:00 a.m.

Date of Intended Adoption: Not sooner than April 25, 2017.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th

Avenue, Olympia, WA 98504, email [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by 5:00 p.m. on April 25, 2017.

Assistance for Persons with Disabilities: Contact Amber Lougheed by April 21, 2017, email [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending WAC 182-550-2531 to strike the requirement of an agency facility site visit in order to qualify as an agency-approved acute physical medicine and rehabilitation (PM&R) hospital. The agency is amending WAC 182-550-2551 as follows: Reorganizing the section to clarify that acute PM&R services may be authorized when all criteria in the section are met; adding acute inflammatory demyelinating polyneuropathy to the list of conditions that qualifies clients for acute PM&R services; and adding language that says the agency will evaluate requests per WAC 182-501-0165 for acute PM&R services that do not meet the criteria in the section. The agency also made housekeeping changes to correct information.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Katie Pounds, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1346; Implementation and Enforcement: Kari Mohr, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-2033.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

March 8, 2017

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-18-065, filed 8/27/15, effective 9/27/15)

**WAC 182-550-2531 Requirements for becoming an acute PM&R provider.** (1) Before August 1, 2007, only an in-state or bordering city hospital may apply to become a medicaid agency-approved acute PM&R hospital. After July 31, 2007, an in-state, bordering city or critical border hospital may apply to become an agency-approved acute PM&R hospital. To apply, the agency requires the hospital provider to submit a letter of request to:

Acute PM&R Program Manager

~~((Division of Health Care Services~~

~~Health and Recovery Services Administration))~~

Clinical Quality and Care Transformation (CQCT)

Medical and Dental Services

P.O. Box 45506

Olympia, WA 98504-5506

(2) A hospital that applies to become an agency-approved acute PM&R facility must provide the agency with documentation that confirms the facility is all the following:

(a) A medicare-certified hospital;  
 (b) Accredited by the joint commission on accreditation of health care organizations (JCAHO);

(c) Licensed by the department of health (DOH) as an acute care hospital as defined under WAC 246-310-010;

(d) Commission on accreditation of rehabilitation facilities (CARF) accredited as a comprehensive integrated inpatient rehabilitation program or as a pediatric family centered rehabilitation program, unless subsection (3) of this section applies;

(e) For dates of admission before July 1, 2007, contracted under the agency's selective contracting program, if in a selective contracting area, unless exempted from the requirements by the agency; and

(f) Operating per the standards set by DOH (excluding the certified rehabilitation registered nurse (CRRN) requirement) in either:

(i) WAC 246-976-800 Level I trauma rehabilitation designation; or

(ii) WAC 246-976-800 Level II trauma rehabilitation designation.

(3) A hospital not yet accredited by CARF:

(a) May apply for or be awarded a twelve-month conditional written approval by the agency if the facility:

(i) Provides the agency with documentation that it has started the process of obtaining full CARF accreditation; and

(ii) Is actively operating under CARF standards.

(b) Must obtain full CARF accreditation within twelve months of the agency's conditional approval date. If this requirement is not met, the agency sends a letter of notification to revoke the conditional approval.

(4) A hospital qualifies as an agency-approved acute PM&R hospital when:

(a) The hospital meets all the applicable requirements in this section; and

(b) ~~((The agency's clinical staff has conducted a facility site visit; and~~

~~(c))~~ The agency provides written notification that the hospital qualifies to be paid for providing acute PM&R services to eligible Washington apple health clients.

(5) The agency-approved acute PM&R hospitals must meet the general requirements in chapter 182-502 WAC Administration of medical programs—Providers.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

**WAC 182-550-2551** ~~((How a client qualifies for))~~  
**When the medicaid agency authorizes acute PM&R services.** (1) ~~((To qualify for))~~ Acute PM&R services ~~((, a client must meet one of the conditions in subsection (2) of this section and have))~~ may be authorized when all of the following are met:

(a) ~~((Extensive or complex medical needs, nursing needs, and therapy needs; and~~

~~(b) A recent or new onset of a condition that causes an))~~

The client has all of the following:

(i) Extensive or complex medical needs;

(ii) Nursing needs; and

(iii) Therapy needs.

(b) The client has a new or recent significant impairment in two or more of the following areas:

(i) Mobility and strength;

(ii) Self-care/ADLs (activities of daily living);

(iii) Communication; or

(iv) Cognitive/perceptual functioning.

~~((2) To qualify for acute PM&R services, a client must meet the conditions in subsection (1) of this section and have))~~ (c) The client has a new or recent onset of one of the following conditions:

~~((a))~~ (i) Brain injury caused by trauma or disease.

~~((b))~~ (ii) Spinal cord injury resulting in:

~~((+))~~ (A) Quadriplegia; or

~~((+))~~ (B) Paraplegia.

~~((c))~~ (iii) Extensive burns.

~~((d))~~ (iv) Bilateral limb loss.

~~((e))~~ (v) Stroke or aneurysm with resulting hemiplegia or cognitive deficits, including speech and swallowing deficits.

~~((f))~~ (vi) Multiple trauma (after the client is cleared to bear weight) with complicated orthopedic conditions and neurological deficits.

~~((g) Severe pressure ulcers after))~~ (vii) Skin flap surgery after severe pressure ulcer for a client who:

~~((+))~~ (A) Requires close observation by a surgeon; and

~~((+))~~ (B) Is ready to mobilize or be upright in a chair.

(viii) Acute inflammatory demyelinating polyneuropathy (AIDP).

(2) If the client does not meet the clinical criteria set forth in this section, the agency will evaluate the request according to the process in WAC 182-501-0165.

**WSR 17-07-052****PROPOSED RULES****EASTERN WASHINGTON UNIVERSITY**

[Filed March 10, 2017, 12:38 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-01-111.

Title of Rule and Other Identifying Information: Amending chapter 172-121 WAC, Student conduct code, to codify rules related to the conduct hearing process for students of Eastern Washington University.

Hearing Location(s): Eastern Washington University, Main Campus, Showalter Hall, Room 201, Cheney, Washington 99004, on April 26, 2017, at 11:00 a.m.

Date of Intended Adoption: May 12, 2017.

Submit Written Comments to: University Policy Administrator, 214 Showalter Hall, Cheney, WA 99004, email clamberson@ewu.edu, fax (509) 359-7036, by April 19, 2017.

Assistance for Persons with Disabilities: Contact Chelsea L. Goss by April 19, 2017, (509) 359-6322.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule is being changed based on a recent state appellate court case, indicating that we must offer a full adjudicative hearing, if a sanction could lead to suspension, expulsion or if charges were filled [filed] for felony level sexual misconduct. The changes amend university standards and processes to comply with the court case for handling incidents of academic integrity.

Statutory Authority for Adoption: RCW 28B.35.120 (12).

Statute Being Implemented: Not applicable.

Rule is necessary because of state court decision, *Arishi v. Washington State University*, No. 33306-0-III, (Wash. Ct. App. Div. III, 2016).

Name of Agency Personnel Responsible for Drafting: Chelsea L. Goss, 214 Showalter, Cheney, WA 99004, (509) 359-6322; Implementation and Enforcement: Angela Jones, 214 Showalter, Cheney, WA 99004, (509) 359-6361.

No small business economic impact statement has been prepared under chapter 19.85 RCW. WAC revision does not impose a disproportionate impact on small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. Chapter 172-121 WAC is not considered a significant legislative rule by Eastern Washington University.

March 10, 2017  
Chelsea L. Goss  
University Policy Administrator

AMENDATORY SECTION (Amending WSR 15-24-050, filed 11/23/15, effective 12/24/15)

**WAC 172-121-020 Definitions.** For purposes of the student conduct code, chapter 172-121 WAC, the definitions in this section apply.

~~("Accused" refers to any student or student organization that is accused of violating the student conduct code under this chapter.)~~

"Appeal authority" refers to the conduct review official presiding over an appeal under WAC 172-121-130.

"Appellant" refers to any (~~accused~~) respondent or complainant who appeals the decisions or sanctions of a hearing authority under WAC 172-121-130.

"Business days" refers to the days and hours the university is open for business. Business days are Monday through Friday, from 8:00 a.m. to 5:00 p.m., excluding holidays as set forth in the university holiday schedule.

"Complainant" means any person who files a complaint alleging that a student or student organization violated the standards of conduct for students. Complainant also refers to the university when the university files the complaint.

"Council" or "the council" refers to the student disciplinary council as described in WAC 172-121-070.

"Council hearing" refers to a conduct review hearing before the student disciplinary council.

"Dean of students" refers to the dean of students or a designee of the dean of students.

"Director of SRR" refers to the director of student rights and responsibilities, or designated representative.

"Filing" means to actually deliver documents. Documents required to be filed with a specific person under these rules shall be deemed filed upon actual receipt during office hours at EWU. Papers may be filed by delivering them to the dean of student's office, sending them via United States mail, properly addressed, postage prepaid, to 300 Showalter Hall, or emailing them to studentrights@ewu.edu.

"Harassment" encompasses harassment, sexual harassment, gender-based harassment, and stalking for the purposes of WAC 172-121-030 through 172-121-140. These terms are further defined in WAC 172-121-200.

"Hearing authority" refers to the university official or student disciplinary council who holds a conduct review hearing.

"Notify" means to provide notice to a person. A person may be notified in person, by telephone, by sending notice to the person's university email account, by leaving a message on his or her personal telephone, or by sending the notice in the United States mail, properly addressed, postage prepaid, to the person's last known address.

"Off-campus" refers to any location or facility that is not owned, leased, rented, or operated by Eastern Washington University.

"Party/parties" refers to the complainant and the respondent.

"Policies" or "university policy" refers to the written regulations of the university, including the standards of conduct for students, residence life handbook, university policies, and graduate/undergraduate catalogs and handbooks.

"Recognized student organizations" refers to clubs, organizations, societies or similarly organized groups recognized by the university or the associated students of Eastern Washington University (ASEWU).

"Respondent" refers to any student or student organization that is the respondent to a violation of the student conduct code under this chapter.

"Serve" means to post a document in the United States mail, properly addressed, postage prepaid, to a person's last known address, personal service, or electronic service to the person's university email account. Service by mail is complete upon deposit in the United States mail.

"Session council" refers to the student disciplinary council members selected for a specific hearing or appeal.

"Sexual misconduct" encompasses domestic violence, relationship violence, and acts of sexual violence for the purposes of WAC 172-121-030 through 172-121-140. These terms are further defined in WAC 172-121-200.

"Student" includes all of the following:

(a) Any applicant who becomes enrolled, for violations of the code committed as part of the application process or committed following the applicant's submission of the application until the time of official enrollment;

(b) Any person currently enrolled at the university;

(c) Nonmatriculated, international students attending institutes or foreign study programs through the university; and

(d) Any person who was previously enrolled at the university for violations of the code committed while enrolled. A person who engaged in conduct in violation of the student conduct code while a student remains subject to action under

this code even if the person has graduated, withdrawn, or is not currently enrolled for any reason.

"Summary hearing" refers to a conduct review hearing before the conduct review officer.

"University" means Eastern Washington University.

"University official" includes any person employed or contracted by the university, performing assigned administrative or professional responsibilities.

"University premises" means buildings and/or property (including adjacent streets and sidewalks) which are owned, leased, rented or operated by the university, to include all satellite campuses affiliated with the university.

"University president" refers to the university president or a designee of the university president.

"Vice president for student affairs" refers to the vice president for student affairs or their designated representative.

AMENDATORY SECTION (Amending WSR 15-24-050, filed 11/23/15, effective 12/24/15)

**WAC 172-121-070 Conduct review officials.** (1) The director of SRR shall:

(a) Serve as the primary point of contact for all matters relating to student conduct code violations and proceedings;

(b) Manage the proceedings as described in this chapter;

(c) Maintain all records of conduct review proceedings as described in WAC 172-121-080;

(d) Ensure complaints of harassment or sexual misconduct involving students are promptly investigated and resolved as required by federal and state laws.

(2) Conduct review officer (CRO): The university president shall designate one or more conduct review officers. The director of (~~(OSRR)~~) SRR may be designated as a conduct review officer. The conduct review officer(s) shall(~~(:~~

~~(a))~~ preside over conduct review proceedings under this chapter(~~(:~~ and

~~(b))~~ and review off-campus incidents of alleged misconduct and make determinations as to whether the conduct involved adversely affects the university community and/or the pursuit of its objectives.

As the presiding officer, the conduct review officer has authority to:

(a) Determine the order of presentation of evidence;

(b) Administer oaths and affirmations;

(c) Issue subpoenas pursuant to RCW 34.05.446;

(d) Rule on procedural matters, objections, and motions;

(e) Rule on motions for summary judgment;

(f) Rule on offers of proof and receive relevant evidence;

(g) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(h) Question witnesses in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(i) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(j) Take official notice of facts pursuant to RCW 34.05.452(5);

(k) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

(l) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(m) Issue an order of default;

(n) Hold prehearing conferences; and

(o) Take any other action necessary and authorized by any applicable statute or rule.

(3) Student disciplinary council: The student disciplinary council hears cases of student conduct code violations as described in WAC 172-121-120. The council also serves as an appeal authority under WAC 172-121-130.

(a) Council pool: For each academic year, a pool of council members shall be established. All members of the council pool are appointed by the university president. Appointment of council pool members is as follows:

~~(i) Faculty ((members shall be selected by the faculty senate for three-year terms;~~

~~(ii) Staff members shall be appointed by the university president for three-year terms;~~

~~(iii) Students shall be appointed by the president of the ASEWU for one-year terms. Student appointments shall be made with the advice and consent of the associated students' legislature, as described in the constitution of the ASEWU. Students holding a position with any of the associated student courts, or who are in any way affiliated with any judicial, quasi-judicial, or advocacy position with the courts of the ASEWU, may not be appointed to the council pool;~~

~~(iv) Community members: One or more members of the local community may be appointed by the university president. Community members serve until either the community member or the university president elects to sever the appointment, up to a maximum appointment period of three years. Community members shall be considered school officials while acting in their capacities as community members on the student disciplinary council and shall sign statements indicating they will comply with the confidentiality requirements of the Family Education Rights and Privacy Act;~~

~~(v)) and staff members are appointed for three-year terms. Student members are appointed for one-year terms;~~

~~(ii) Council chair: The director of SRR, or designee, shall serve as chair of council proceedings but will not have the right to vote, except in the case of a tie;~~

~~((vi)) (iii) Vacancies: Council pool vacancies shall be filled as needed ((by the designated appointing authority)) through presidential appointment.~~

(b) Session council: When a student disciplinary council is needed for a hearing or an appeal, ~~((ouncil members shall be selected from the council pool as follows:~~

~~(i) Composition: A session council will typically consist of one nonvoting chair, two student members, and two faculty or staff members. The faculty/staff members may be both faculty, both staff, or one faculty and one staff member. The number of council members may vary, so long as quorum requirements are met. A community member may also serve on a session council, at the discretion of the director of SRR;~~

~~(ii) Selection:))~~ the director of SRR shall select available members from the council pool to serve as the session council(~~;~~

~~(iii) Quorum: A quorum consists of three voting members which must include at least one student and one faculty/staff member)). Each session council must include a quorum. A quorum is three voting members, which must include at least one student and one faculty/staff member.~~

AMENDATORY SECTION (Amending WSR 13-24-123, filed 12/4/13, effective 1/4/14)

**WAC 172-121-075 Conflicts of interest.** (1) Individuals who play a role in receiving, investigating, and otherwise processing complaints shall not have any conflict of interest in the process. In the event such a conflict arises in the process, the person shall disclose such interest to the parties. Parties to the complaint who believe a university official involved in the process has a conflict of interest may report such concerns to the director of SRR or the dean of students. The director or dean shall determine whether a conflict of interest exists and take appropriate action.

(2) Anyone who serves as an investigator or advocate, or someone who is subject to the authority, direction, or discretion of such a person, may not serve as the conduct review officer for a full adjudicative hearing.

(3) Challenges to council membership. Members of the student disciplinary council and the conduct review officer shall not participate in any case in which they are the (~~(accused))~~ respondent, the complainant, a victim, or a witness; in which the respondent, complainant, victim, or a witness is a family member or friend; in which they have a personal interest or bias; or in which they have acted previously in an investigatory, advisory, or adjudicatory capacity.

(a) If a member has such a conflict, the person shall recuse (~~(themselves))~~ him/herself from further involvement in the case. In the event such a conflict arises after the council has been selected or during a proceeding, the member shall disclose the conflict to the parties.

(b) A member's or the conduct review officer's eligibility to participate in a case may be challenged by parties to the case or by other council members at any time by submitting a motion to disqualify to the conduct review officer. When such a challenge is made, the session council, excluding the person alleged to have a conflict of interest, shall make a decision on the challenge.

(c) If a member is disqualified or disqualifies (~~(themselves))~~ him/herself from a case, the director of SRR will appoint a replacement.

AMENDATORY SECTION (Amending WSR 13-24-123, filed 12/4/13, effective 1/4/14)

**WAC 172-121-080 Administration and records.** (1) Student conduct code.

(a) Interpretation: Any questions regarding the interpretation or application of this student conduct code are referred to the vice president for student affairs for final determination.

(b) Review: This student conduct code shall be reviewed every three years under the direction of the vice president for student affairs.

(2) Records of conduct review proceedings.

(a) Records of conduct review proceedings under this chapter shall be prepared by the conduct review official(s) involved and maintained by the director of SRR. As much as possible, records should include:

(i) A summary of the proceedings during a preliminary conference;

(ii) An audio recording of conduct review hearings;

(iii) All letters, statements, memoranda, decisions, orders, notices, and other documents related to conduct review proceedings; (~~and~~)

(iv) Any images, articles, recordings, or other materials presented as evidence in a conduct review proceeding;

(v) A statement of matters officially noticed or considered by the council;

(vi) Evidence submitted, whether or not accepted, any objections and rulings, any cross-examination questions submitted to the council and rulings on such questions;

(vii) Proposed findings, requested orders, and exceptions;

(viii) Recording of the hearing and subsequent transcript, if any;

(ix) Any staff memorandum to the extent required by RCW 34.05.476; and

(x) Matters placed on the record after any ex parte communication. "Ex parte" means when a member of the student discipline council or conduct review officer communicates with a party about a nonprocedural matter regarding the hearing when the other party is not present.

(b) The director of SRR shall keep records of conduct review proceedings for seven years.

(c) Records of conduct review proceedings are the property of the university and are confidential to the extent provided in applicable law.

(d) Prior to the final disposition of a case, the (~~(accused))~~ respondent may review the records relative to their case. The (~~(accused))~~ respondent shall request to review the case records by contacting the conduct review officer. The conduct review officer shall make every reasonable effort to support the (~~(accused's))~~ respondent's request.

(3) Student disciplinary records.

(a) Student disciplinary records are confidential and shall be treated consistently with the requirements of the Family Educational Rights and Privacy Act (FERPA) and applicable law. Disciplinary records shall be maintained in accordance with the university's records retention schedule.

(b) Release of student disciplinary records. The university shall not communicate a student's disciplinary record to any person or agency outside the university without the prior written consent of the student, except as required or permitted by law. Exceptions include, but are not limited to:

(i) The student's parents or legal guardians may review these records as permitted by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(ii) Release to another educational institution, upon request, where the student seeks or intends to enroll, as

allowed by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(iii) In response to a judicial order or a lawfully issued subpoena.

(iv) The university shall release information related to disciplinary records to complainants, victims, or other persons as required by Title IX of the Education Amendments of 1972, the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, and other state and federal laws.

(v) Disciplinary records will be made available to hearing councils and university personnel as needed for legitimate educational purposes.

(vi) A student may authorize release of their own disciplinary record to a third party in compliance with FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99) by providing a written consent to student rights and responsibilities.

(vii) Any student may review his/her own disciplinary records by contacting student rights and responsibilities.

(viii) A student may obtain a copy of their disciplinary record by making a written request to student rights and responsibilities. Student rights and responsibilities may charge the student a reasonable amount to cover copying expenses.

(ix) The university may disclose to a student's parents a violation of any federal, state, or local law, or of any university policy or rules regarding use or possession of alcohol or a controlled substance so long as the student is under the age of twenty-one at the time of the disclosure to the parent.

(c) When disciplinary records are released, personally identifiable information may be redacted to protect the privacy of others as permitted by law.

(4) Holds:

(a) Types of holds. Holds placed on a student's academic records may prevent admission, registration, graduation, or other academic activities. Holds may also restrict access to transcripts, grades, or other academic records.

(b) Discretionary holds: The conduct review officer may place a hold on a student's academic records in either of the following situations:

(i) Pending the student's satisfactory completion of any sanctions imposed by a conduct review hearing; or

(ii) If the student fails to respond to any properly delivered notice from the conduct review officer.

(c) Required holds: The conduct review officer shall place a hold on a student's academic record if the student is ~~((accused of violating))~~ the respondent to a violation of the conduct code and has withdrawn from the university, or if the student withdraws from the university after a complaint is filed against the student. This hold shall remain in place until the allegation or complaint is resolved.

AMENDATORY SECTION (Amending WSR 15-24-050, filed 11/23/15, effective 12/24/15)

**WAC 172-121-100 Complaints.** (1) Filing of complaints.

(a) Any person may file a complaint against a student or student organization for violation of the student conduct code.

(b) A person wishing to file a complaint under the student conduct code must submit the complaint, in writing, to one of the following:

(i) Student rights and responsibilities; or

(ii) The office of the dean of students.

(c) Filing a complaint under the student conduct code does not prohibit or limit a person's right to file complaints or charges with other civil and/or criminal authorities for violations of local, county, state, or federal law.

(d) All student conduct code complaints will be forwarded to the director of SRR for further review and action.

(e) In cases where the university is acting as the complainant, the director of SRR shall initiate the complaint.

(2) Complaint review. Upon receipt of a complaint, the director of SRR shall review the complaint to determine whether it includes allegations of harassment, sexual misconduct, and/or criminal conduct that will require special processing under subsection (3) of this section and whether appropriate law enforcement or other authorities should be notified. The director of SRR shall also review the complaint to determine whether the allegations may lead to a possible sanction of suspension, expulsion, or if charges have been filed for felony level sexual misconduct; all such cases are referred to a council hearing under WAC 172-121-122.

(3) Special rules for complaints of harassment and/or sexual misconduct. Except where specifically stated, this section applies to all allegations the university receives of harassment and/or sexual misconduct. This section shall apply regardless of where the alleged acts occurred.

(a) Report to Title IX coordinator. The director of SRR shall report all complaints which may constitute any form of harassment and/or sexual misconduct to the university Title IX coordinator within ~~((two business days))~~ twenty-four hours.

(b) Prompt resolution. The university shall investigate any complaint alleging harassment and/or sexual misconduct when it is legally required to do so to determine if the university will pursue the incident under this student conduct code and/or refer the incident to other departments or agencies for further criminal, civil, or disciplinary action. All allegations of harassment and/or sexual misconduct shall be promptly investigated and resolved. For student conduct cases, the university uses the hearing processes set forth in this code as the means of investigating a complaint. In the absence of extenuating circumstances, the university will seek to have the allegations resolved within sixty days from the date it is notified of the allegation.

(c) Confidentiality. To facilitate the investigative process and protect the privacy of those involved, all information will be maintained in a confidential manner to the fullest extent permissible by law. During an investigation, complaint information will be disseminated on a need-to-know basis. If the complainant or victim wishes to remain anonymous, the university will take all reasonable steps to investigate the allegation without disclosing the name of the complainant to the extent allowed by state and federal law. If the complainant or victim wishes to remain anonymous, the university shall inform them that its ability to investigate and respond to the allegation will be limited. The university cannot ensure confidentiality, as its legal obligations under fed-

eral or state law may require investigation of the allegation and possible disclosure of the complainant's name. Reports of crimes to the campus community shall not include the names of the complainants or victims. Files subject to public disclosure will be released to the extent required by law.

(d) Right to file a criminal report. Once the university is notified of an allegation of sexual harassment, gender-based harassment, stalking, or any form of sexual misconduct, it will notify the potential victim of their right to file a criminal complaint with campus or local law enforcement. If the victim in such circumstances wishes to report the conduct to local law enforcement, the university will assist them in doing so. The university will also notify the victim that he or she is not required to file a report with local law enforcement. The university will report allegations of harassment or sexual misconduct to law enforcement or other authorities consistent with federal, state, and local law.

(4) Interim measures. During the complaint review, the director of SRR will evaluate the circumstances and recommend to the dean of students if any interim restriction action against the ~~((accused))~~ respondent is warranted or if any interim measures to assist or protect the complainant and/or victim during the conduct code process are needed. In cases of alleged harassment and/or sexual misconduct, the director of SRR shall, in conjunction with the dean of students and other appropriate university officials, take immediate steps to protect the complainant and/or victim from further harassment prior to completion of the investigation/resolution of the complaint. Appropriate steps may include separating the ~~((accused harasser))~~ respondent and the complainant/victim, providing counseling for the complainant/victim and/or harasser, and/or taking disciplinary action against the ~~((accused))~~ respondent.

(5) Inform complainant. As part of the complaint review process, the director of SRR will follow up with the complainant as described below.

(a) For cases other than harassment and/or sexual misconduct, the director of SRR will contact the complainant and provide them with the following information:

(i) The complainant's rights under the student conduct code;

(ii) The allegations which the complainant has against the ~~((accused))~~ respondent;

(iii) The potential conduct code violations related to the allegations; and

(iv) How to report any subsequent problems or retaliation, including intimidation, threats, coercion, or discrimination.

(b) In all cases alleging harassment or sexual misconduct, the director of SRR will provide the complainant with written information that will include, at a minimum:

(i) The student's rights and options, including options to avoid contact with the respondent; a list of available university and community resources for counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other academic and housing services at the university and in the community; and options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures.

(ii) The importance of preserving evidence of the alleged incident and procedures to follow to preserve evidence of the alleged incident;

(iii) Who will receive a report of the allegation;

(iv) Their right to file or not file a criminal complaint as detailed above and the ability to be assisted by campus authorities in notifying law enforcement authorities if the complainant wishes to do so;

(v) A list of resources for obtaining protective, no contact, restraining, or similar orders, if applicable;

(vi) The procedures the university will follow when determining if discipline is appropriate;

(vii) Steps the university will take to ensure confidentiality of complainants and other necessary parties and the limits this may place on the university's ability to investigate and respond, as set forth above; and

(viii) Information regarding the university's policy against retaliation, steps the university will take to prevent and respond to any retaliation, and how the student should report retaliation or new incidents.

(6) Following the complaint review, the director of SRR will either dismiss the matter or arrange a preliminary conference.

(a) Dismiss the matter. If the director of SRR ~~((believes that there is insufficient justification or insufficient evidence to pursue conduct review proceedings against the accused))~~ determines the allegations, even if true, would not rise to the level of a conduct violation, he/she may dismiss the matter. In such cases, the director of SRR will prepare a written record of the dismissal. The director of SRR will also notify the complainant of their decision, if such notification is appropriate and feasible. The dismissal letter, along with the original complaint and any other related documents, will be maintained as described in WAC 172-121-080. In cases of harassment and/or sexual misconduct, the complainant/victim may request a review of the dismissal by the dean of students by filing a request for review with the director of SRR within ten days.

(b) Preliminary conference. If the director of ~~((SRR))~~ SRR does not dismiss the matter he/she will arrange a preliminary conference as described in WAC 172-121-110.

AMENDATORY SECTION (Amending WSR 13-24-123, filed 12/4/13, effective 1/4/14)

**WAC 172-121-105 Conduct review proceedings. (1)**

General provisions:

(a) ~~((A))~~ Conduct review proceedings in which the potential sanction is less than suspension, expulsion, or do not involve allegations of felony level sexual misconduct are summary hearings and considered brief adjudicative proceedings in accordance with WAC 172-108-010(3), and shall be conducted in an informal manner. Conduct review proceedings in which the potential sanction is suspension, expulsion, or that involve allegations of felony level sexual misconduct are council hearings under this code and are considered full adjudicative proceedings under the Administrative Procedure Act.

(b) Nonjudicial proceedings: Formal rules of process, procedure, and/or technical rules, such as are applied in crim-

inal or civil courts, do not apply in student conduct code proceedings.

(2) Notification for student organizations: When a charge is directed towards a student organization, the conduct review officer will communicate all matters relative to conduct review proceedings with the president of the organization or their designee.

(3) Advisors: The complainant, victim, and the ~~((accused))~~ respondent may be assisted by one advisor of their choice, subject to the following provisions:

(a) Any fees or expenses associated with the services of an advisor are the responsibility of the complainant, victim, or the ~~((accused))~~ respondent that employed the advisor;

(b) The advisor may be an attorney or any other person of the student's choosing;

~~(c) ((The complainant and the accused are responsible for presenting their own case and, therefore, advisors may not speak or participate directly in any conduct review proceeding. The complainant and/or the accused may, however, speak quietly with their advisor during such proceedings; and~~

~~(d) If an attorney is used as an advisor, the person using the attorney shall inform the conduct review officer or the council of their intent to do so at least two business days prior to any conduct review proceeding-))~~ The advisor must provide the conduct review officer with a FERPA release signed by the student they are assisting;

(d) If a complainant, victim, or the respondent is represented by an attorney, the attorney shall provide the conduct review officer and other parties with the attorney's name, address, telephone number, and email address. The attorney must file a notice of appearance when hired to represent a person and a notice of withdrawal upon withdrawal of representation. A notice of appearance must be filed at least two business days prior to any conduct review proceeding.

(4) Review of evidence:

~~((The accused))~~ (a) In summary hearings, the respondent, and, in cases of harassment and/or sexual misconduct, the complainant/victim may request to view material related to their case prior to a scheduled hearing by contacting the conduct review officer. To facilitate this process, the party should contact the conduct review officer as early as possible prior to the scheduled hearing. The conduct review officer shall make a reasonable effort to support the request to the extent allowable by state and federal law.

(b) In council hearings, the parties may request to view material related to the case prior to the scheduled hearing by contacting the conduct review officer. To facilitate this process, the party should contact the conduct review officer as early as possible prior to the scheduled hearing. The conduct review officer shall make a reasonable effort to support the request to the extent allowable by state and federal law.

(5) Continuances: Continuances, extensions of time, and adjournments may be ordered by the conduct review officer. A party may file a timely request for a continuance if the party shows good cause for the continuance. A request for a continuance may be oral or written. Before granting a motion for a continuance, the conduct review officer shall allow any other party to object to the request. The conduct review officer will make a decision on the request and will communicate

his/her decision in writing to the parties along with the reasons for granting or denying the request.

AMENDATORY SECTION (Amending WSR 13-24-123, filed 12/4/13, effective 1/4/14)

**WAC 172-121-110 Preliminary conference.** (1) Scheduling. If, after reviewing a complaint, the director of SRR decides to initiate conduct review proceedings, the director shall, within ten business days of receiving the initial complaint, appoint a conduct review officer (CRO) to the case and notify the ~~((accused))~~ respondent. In cases alleging harassment and/or sexual misconduct, the CRO assigned must have completed training on issues relating to harassment and sexual misconduct, including Title IX requirements. Notification of the ~~((accused))~~ charges to the respondent must:

(a) Be made in writing;

(b) Include a written list of charges against the ~~((accused))~~ respondent; and

(c) Include the name of the conduct review officer assigned to the case and the deadline for the ~~((accused))~~ respondent to contact the CRO in order to schedule a preliminary conference. Whenever possible, the deadline for the ~~((accused))~~ respondent to contact the CRO will be within five business days of the date the director of SRR sent notification to the ~~((accused))~~ respondent.

(2) Failure to respond: If the ~~((accused))~~ respondent fails to comply with the notification requirements, the director of SRR shall schedule the preliminary conference and notify the ~~((accused))~~ respondent. The notification shall be in writing and shall include a date, time, and location of the preliminary conference.

(3) Follow up with complainant/victim. In all cases alleging harassment and/or sexual misconduct or if there will be a council hearing, the CRO shall notify the complainant(s) of the date, time, and location of the preliminary conference and of their right to attend the conference. The CRO shall also follow up with the ~~((complainant(s)/victim(s) to determine whether))~~ complainant(s)/respondent(s) to inform them of the process of reporting any retaliation or new incidents of harassment ~~((have occurred))~~. If the complainant/victim has experienced any type of retaliatory behavior, the university shall take immediate steps to protect the complainant/victim from further harassment or retaliation.

(4) Appearance. ~~((Except for cases alleging harassment and/or sexual misconduct.))~~

(a) For summary hearings only the ((accused)) respondent and the ((accused's)) respondent's advisor may appear at the preliminary conference, unless the case involves alleged harassment and/or sexual misconduct. In cases alleging harassment and/or sexual misconduct, the ((accused)) respondent and the complainant/victim, along with their advisors, if they choose to have an advisor, may appear at the preliminary conference.

(b) For council hearings, both parties and their advisors may appear at the preliminary conference.

(5) Failure to appear. In cases where proper notice has been given but the ~~((accused))~~ respondent fails to attend the preliminary conference, the CRO may:



(a) Proceed with a hearing and decide the case based on the information available; or

(b) Place a hold on the ~~((accused's))~~ respondent's academic records as described in WAC 172-121-080.

(6) ~~((Proceedings.))~~ Preliminary conference. The purpose of the preliminary conference is to advise the parties regarding the student conduct process. If both of the parties are not present, the CRO will refrain from discussing any nonprocedural matters. During the preliminary conference, the conduct review officer will:

(a) Review the written list of charges with the ~~((accused))~~ respondent;

(b) Inform the ~~((accused))~~ respondent who is bringing the complaint against them;

(c) Provide the ~~((accused))~~ respondent with a copy of the student conduct code and any other relevant university policies;

(d) Explain the ~~((accused's))~~ respondent's rights under the student code;

(e) Explain the conduct review procedures;

(f) Explain the ~~((accused's))~~ respondent's and complainant's rights and responsibilities in the conduct review process; and

(g) Explain possible penalties under the student conduct code.

(7) After the preliminary conference, the conduct review officer will take one of the following actions:

(a) Conduct or schedule a summary hearing with the ~~((accused))~~ respondent as described in WAC ~~((172-121-120;))~~ 172-121-121 for cases where the possible sanction is less than a suspension or the allegations do not involve felony level sexual misconduct; or

(b) ~~((Schedule a summary hearing with the accused as described in WAC 172-121-120; or~~

~~((e)))~~ Refer the case to the student disciplinary council for a council hearing under WAC ~~((172-121-120))~~ 172-121-122 for any cases where the possible sanction is a suspension, expulsion, or involves an allegation of felony level sexual misconduct.

AMENDATORY SECTION (Amending WSR 15-24-050, filed 11/23/15, effective 12/24/15)

**WAC 172-121-120 Hearing~~((s))~~ procedures.** The provisions ~~((of subsections (1) through (8)))~~ of this section apply to both summary hearings and to council hearings.

(1) General provisions.

(a) Hearing authority: The hearing authority, through the conduct review officers, exercises control over hearing proceedings. All procedural questions are subject to the final decision of the ~~((hearing authority))~~ conduct review officer.

(b) Closed hearings: All conduct review hearings will be closed. Admission of any person to a conduct review hearing shall be at the discretion of the hearing authority.

(c) Consolidation of hearings: In the event that one or more students are charged with the same misconduct arising from the same occurrence, the hearing authority may conduct separate hearings for each student or consolidate the hearings as practical, as long as consolidation does not impinge on the rights of any student.

(2) Appearance.

(a) Failure to appear: In cases where proper notice has been given but the ~~((accused))~~ respondent fails to attend a conduct review hearing, the hearing authority shall decide the case based on the information available, without the ~~((accused's))~~ respondent's input.

(b) Complainant's appearance: The complainant will be provided options for reasonable alternative arrangements if they do not wish to be present in the same room as the ~~((accused))~~ respondent student during the hearing. The complainant may appear at the conduct review hearing in person, through telephone conference, or through any other practical means of communication, ~~((so long as the complainant's identity can be reasonably established))~~ subject to the limits set forth below in (c) of this subsection.

(c) Advisors: The complainant and the ~~((accused))~~ respondent may be assisted by an advisor during conduct review hearings as described in WAC ~~((172-121-090))~~ 172-121-105.

(d) Disruption of proceedings: Any person, including the ~~((accused))~~ respondent, who disrupts a hearing, may be excluded from the proceedings.

(e) Telephonic appearance. In the interest of fairness and expedience, the ~~((hearing authority))~~ conduct review officer may permit any person to appear by telephone, audio tape, written statement, or other means, as appropriate, if the rights of the parties will not be substantially prejudiced by a telephonic appearance as determined by the conduct review officer.

(3) ~~((Evidence.~~

~~((a) Evidence: Pertinent records, exhibits and written statements may be accepted as information for consideration by the hearing authority. However, hearing authorities are not bound by the rules of evidence observed by courts. The hearing authority may exclude incompetent, irrelevant, immaterial or unduly repetitious material.~~

~~((b) The accused, and, in cases of sexual harassment or sexual misconduct, the complainant and/or victim, have the right to view all material presented during the course of the hearing.~~

~~((4)))~~ Standard of proof. The hearing authority shall determine whether the ~~((accused))~~ respondent violated the student conduct code, as charged, based on a preponderance of the evidence. A preponderance means, based on the evidence admitted, whether it is more probable than not that the ~~((accused))~~ respondent violated the student conduct code.

~~((5)))~~ (4) Sanctions. In determining what sanctions shall be imposed, the hearing authority may consider the evidence presented at the hearing as well as any information contained in the student's disciplinary and academic records. If a student fails to appear for a hearing, then the hearing authority shall review the evidence provided and may consider information available from the student's disciplinary and academic records in determining what sanction should be imposed.

~~((6))~~ Witnesses:

~~((a) The complainant, victim, accused and hearing authority may present witnesses at council review hearings.~~

(b) The party who wishes to call a witness is responsible for ensuring that the witness is available and present at the time of the hearing.

(c) The hearing authority may exclude witnesses from the hearing room when they are not testifying. The hearing authority is not required to take the testimony of all witnesses called by the parties if such testimony may be inappropriate, irrelevant, immaterial, or unduly repetitious.

(d) All parties have the right to hear all testimony provided by witnesses during the hearing.

(7) Questioning:

(a) The complainant and the accused may submit questions to be asked of each other or of any witnesses. Questions shall be submitted, in writing, to the hearing authority. The hearing authority may ask such questions, but is not required to do so. The hearing authority may reject any question which it considers inappropriate, irrelevant, immaterial or unduly repetitious. The hearing authority has complete discretion in determining what questions will be asked during the hearing.

(b) During a conduct review hearing, only the hearing authority may pose questions to persons appearing before them.

(c) The hearing authority may ask their own questions of any witness called before them.

(8) The hearing authority may accommodate concerns for personal safety, well-being, or fears of confrontation of any person appearing at the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means, as determined appropriate.

(9) Summary hearing procedures.

(a) The conduct review officer may hold a summary hearing with the accused only if all of the following conditions are met:

(i) The accused waives his/her right to prior notice about a conduct review hearing;

(ii) The accused requests that the case be heard in a summary hearing with the conduct review officer; and

(iii) The conduct review officer agrees to conduct the summary hearing. The conduct review officer is not obligated to conduct a summary hearing, but may instead refer the case to the student disciplinary council for a council hearing.

(b) Sexual misconduct cases. Allegations of sexual misconduct may not be resolved through a summary hearing but must be referred for a council hearing, unless the case has been otherwise resolved.

(c) Scheduling. A summary hearing may take place immediately following the preliminary conference or it may be scheduled for a later date or time, except that, in cases of harassment, a summary hearing cannot take place without first notifying the complainant/victim of the hearing. If the summary hearing will be held at a later date or time, the conduct review officer shall schedule the hearing and notify the accused and, in the case of harassment, the complainant/victim of the date, time, and place of the hearing. The conduct review officer may coordinate with the parties to facilitate scheduling, but is not required to do so.

(d) If the accused fails to appear at the summary hearing, the conduct review officer may conduct the summary hearing without the accused present or refer the case to the student

disciplinary council for a council hearing under WAC 172-121-110. The conduct review officer may also place a hold on the accused's academic records under WAC 172-121-080.

(e) Deliberation. After the hearing, the conduct review officer shall decide whether the accused violated the student conduct code based on a preponderance of the evidence.

(i) If the conduct review officer determines that there is not sufficient information to establish a violation by a preponderance of evidence, the conduct review officer shall dismiss the complaint.

(ii) If the conduct review officer determines that the accused violated the student conduct code, the conduct review officer shall impose any number of sanctions as described in WAC 172-121-210.

(f) Notification. The conduct review officer shall serve the accused with a brief written statement setting forth the outcome of the summary hearing and notice of the right to appeal. In the case of sexual harassment, gender based harassment, or stalking, the victim shall be provided with written notice of: (i) The university's determination as to whether such harassment occurred; (ii) the victim's right to appeal; (iii) any change to the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)). Information regarding the discipline of the accused will not be released unless:

(A) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or

(B) The misconduct involves a crime of violence or a sexual assault, including rape, relationship violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).

(10) Council hearing procedures.

(a) Scheduling and notification. If the conduct review officer has decided to refer the case to the student disciplinary council for a council hearing, the director of SRR shall schedule the hearing and notify the accused with the date, time and location of the hearing. The director of SRR shall also inform the council and notify the complainant/victim of the date, time, and location of the hearing in writing. The council must receive at least seventy two hours' notice as to the time and place of the hearing. The conduct review officer may coordinate with the parties to facilitate scheduling, but is not required to do so.

(b) Deliberations and sanctions. Following the hearing, the council shall meet in closed session and, within seven days, determine by majority vote whether, by a preponderance of the evidence, the accused violated the student conduct code. If the council determines the accused violated the student conduct code, the council shall then decide what sanctions shall be imposed. Sanctions shall be decided by majority vote and in closed session.

(c) Notification. The council chair shall forward the council decision to the director of SRR. The director of SRR shall serve the accused with a brief written statement setting forth the council's decision and notice of the right to appeal. In the case of sexual harassment, gender based harassment, stalking, or any act of sexual misconduct, the victim shall be provided with written notice of: (i) The university's determination as to whether such harassment/sexual misconduct occurred; (ii) the victim's right to appeal; (iii) any change to

~~the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)). Information regarding the discipline of the accused will not be released unless:~~

~~(A) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or~~

~~(B) The misconduct involves a crime of violence or a sexual assault, including rape, relationship violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a-))~~

#### NEW SECTION

**WAC 172-121-121 Summary hearings.** Summary hearing procedures.

(1) The conduct review officer may hold a summary hearing with the respondent if the proposed sanction is less than a suspension and the allegations do not involve felony level sexual misconduct.

(2) Scheduling. A summary hearing may take place immediately following the preliminary conference or it may be scheduled for a later date or time, except that, in cases of harassment or sexual misconduct, a summary hearing cannot take place without first notifying the complainant/respondent of the hearing. If the summary hearing will be held at a later date or time, the conduct review officer shall schedule the hearing and notify the respondent and, in the case of harassment or sexual misconduct, the complainant/respondent of the date, time, and place of the hearing. The conduct review officer may coordinate with the parties to facilitate scheduling, but is not required to do so.

(3) If the respondent fails to appear at the summary hearing, the conduct review officer may conduct the summary hearing without the respondent present or refer the case to the student disciplinary council for a council hearing under WAC 172-121-110. The conduct review officer may also place a hold on the respondent's academic records under WAC 172-121-080.

(4) Deliberation. After the hearing, the conduct review officer shall decide whether the respondent violated the student conduct code based on a preponderance of the evidence.

(a) If the conduct review officer determines that there is not sufficient information to establish a violation by a preponderance of evidence, the conduct review officer shall dismiss the complaint.

(b) If the conduct review officer determines that the respondent violated the student conduct code, the conduct review officer shall impose any number of sanctions as described in WAC 172-121-210.

(5) Notification. The conduct review officer shall serve the respondent with a brief written statement setting forth the outcome of the summary hearing and notice of the right to appeal. In the case of sexual harassment, gender-based harassment, or stalking, the victim shall be provided with written notice of:

(a) The university's determination as to whether such harassment occurred;

(b) The victim's right to appeal;

(c) Any change to the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)).

Information regarding the discipline of the respondent will not be released unless:

(i) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or

(ii) The misconduct involves a crime of violence or a sexual assault, including rape, relationship violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).

#### NEW SECTION

**WAC 172-121-122 Council hearing procedures.** (1) Scheduling and notification. If the conduct review officer has decided to refer the case to the student disciplinary council for a council hearing, the director of SRR shall schedule the hearing and notify the respondent with the date, time, and location of the hearing. The director of SRR shall also inform the council and notify the complainant/respondent of the date, time, and location of the hearing in writing as well as any other details required by RCW 34.05.434. The notice will include information about how to request accommodations or interpreters for any parties or witnesses. The notice of hearing must be served on the respondent and complainant at least seven business days prior to the hearing. The conduct review officer may coordinate with the parties to facilitate scheduling, but is not required to do so.

(2) Evidence.

(a) Evidence: Pertinent records, exhibits and written statements may be accepted as information for consideration by the conduct review officer in accordance with RCW 34.05.452. Evidence, including hearsay evidence, is admissible if in the judgment of the conduct review officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The conduct review officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized by Washington courts. The conduct review officer may exclude incompetent, irrelevant, immaterial or unduly repetitious material. If not inconsistent with this section, the conduct review officer shall refer to the Washington rules of evidence as guidelines for evidentiary rulings.

(b) The respondent, and, in cases of sexual harassment or sexual misconduct, the complainant and/or victim, have the right to view all material presented during the course of the hearing.

(c) All testimony of parties and witnesses shall be made under oath or affirmation. Any interpreter shall be proscribed the oath set forth in WAC 10-08-160.

(d) Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

(e) Official notice may be taken of (i) any easily verifiable facts such as dates or weather conditions, (ii) technical or scientific facts within EWU's specialized knowledge, and (iii) codes or standards that have been adopted by an agency of the United States, of this state or of another state, or by a nationally recognized organization or association. Parties

shall be notified either before or during hearing, or by reference in preliminary reports or otherwise, of the material so noticed and the sources thereof, including any staff memoranda and data, and they shall be afforded an opportunity to contest the facts and material so noticed. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

(f) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of RCW 34.05.452.

(3) Discovery. Discovery is not permitted under the code, except for requests for documentary information from the university. Either party may request the university to produce relevant documents as long as such request is submitted at least five days prior to the hearing, absent extenuating circumstances. If the CRO determines the request is not relevant to the present allegation, the CRO may deny the request. The university will provide the requested information prior to the hearing to the extent permitted by state and federal law.

(4) Subpoenas.

(a) Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.05.446 and 5.56.010.

(b) Every subpoena shall identify the party causing issuance of the subpoena and shall state EWU's name and the title of the proceeding and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under his or her control.

(i) A subpoena to a person to provide testimony at a hearing shall specify the time and place set for hearing.

(ii) A subpoena duces tecum requesting a person to produce designated books, documents, or things under his or her control shall specify a time and place for producing the books, documents, or things. That time and place may be the time and place set for the hearing, or another reasonably convenient time and place in advance of the hearing.

(c) A subpoena may be served by any suitable person over eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at the place of his or her abode. When service is made by any other person than an officer authorized to serve process, proof of service shall be made by affidavit or declaration under penalty of perjury.

(d) The conduct review officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (i) quash or modify the subpoena if it is unreasonable and oppressive or (ii) condition denial of the motion upon advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(5) Summary judgment. A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

(6) Witnesses.

(a) The complainant, victim, respondent and hearing authority may present witnesses at council review hearings.

(b) The party who wishes to call a witness is responsible for ensuring that the witness is available and present at the

time of the hearing. For purposes of a council hearing, an attorney may subpoena a witness to appear at the hearing. Nonattorneys may request the CRO to subpoena witnesses in accordance with subsection (7) of this section. The CRO has the discretion to deny a request to issue a subpoena or to quash a subpoena issued by an attorney if the subpoena is unreasonable and oppressive.

(c) The hearing authority may exclude witnesses from the hearing room when they are not testifying. The hearing authority is not required to take the testimony of all witnesses called by the parties if such testimony may be inappropriate, irrelevant, immaterial, or unduly repetitious.

(d) All parties have the right to hear all testimony provided by witnesses during the hearing.

(e) The parties should inform the CRO of any possible need for an interpreter or any accommodation requests at least five days prior to the hearing. The CRO will comply with WAC 10-08-150.

(7) Questioning:

(a) The complainant, the respondent, and their advisors may submit questions to be asked of each other or of any witnesses. Questions shall be submitted, in writing, to the CRO. The CRO may ask such questions, but is not required to do so. The CRO may reject any question which it considers inappropriate, irrelevant, immaterial or unduly repetitious. The CRO will explain to the parties the reason for rejecting any questions and will maintain a record of the questions submitted and rulings made.

(b) During a conduct review hearing, only the hearing authority may pose questions to persons appearing before them.

(c) The hearing authority may ask their own questions of any witness called before them.

(8) The hearing authority may accommodate concerns for personal safety, well-being, or fears of confrontation of any person appearing at the hearing by providing separate facilities, or by permitting participation by telephone, audio tape, written statement, or other means, as determined appropriate, subject to subsection (2)(e) of this section.

(9) Deliberations and sanctions. Following the hearing, the council shall meet in closed session and, within seven days, determine by majority vote whether, by a preponderance of the evidence, the respondent violated the student conduct code. If the council determines the respondent violated the student conduct code, the council shall then decide what sanctions shall be imposed. Sanctions shall be decided by majority vote and in closed session. The council shall issue a decision including its findings, conclusions, and rationale. The decision shall address credibility issues if credibility or witness demeanor was a substantial factor in the council's decision. The findings shall be based exclusively on the evidence provided at the hearing. The written decision shall also:

(a) Be correctly captioned identifying EWU and the name of the proceeding;

(b) Designate all parties and representatives participating in the proceeding;

(c) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

(d) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;

(e) Contain an initial or final order disposing of all contested issues;

(f) Contain a statement describing the available post-hearing remedies.

(10) Notification. The council chair shall forward the council decision to the director of SRR. The director of SRR shall serve the respondent with a brief written statement setting forth the council's decision and notice of the right to appeal. In the case of sexual harassment, stalking, or any act of sexual misconduct, the victim shall be provided with written notice of:

(a) The university's determination as to whether such harassment/sexual misconduct occurred;

(b) The victim's right to appeal;

(c) Any change to the results that occurs prior to the time that such results become final; and when such results become final (20 U.S.C. 1092(f)).

Information regarding the discipline of the respondent will not be released unless:

(i) The information contained in the record directly relates to the complainant, such as an order requiring the student harasser to not contact the complainant; or

(ii) The misconduct involves a crime of violence or a sexual assault, including rape, relationship violence, domestic violence or stalking as defined in 42 U.S.C. Sec. 13925(a).

**AMENDATORY SECTION** (Amending WSR 15-24-050, filed 11/23/15, effective 12/24/15)

**WAC 172-121-130 Appeals.** (1) Basis: Appeals may be filed by the ~~((accused))~~ respondent or the complainant. In cases of harassment and/or sexual misconduct, the victim may also file an appeal. Appeals may be filed for one or more of the following reasons:

(a) To determine whether the hearing was conducted according to established procedures. A hearing may have deviated from established procedures if:

(i) The hearing was not conducted fairly in light of the charges and information presented;

(ii) The complainant was not given a reasonable opportunity to prepare and to present information as provided by the student conduct code;

(iii) The ~~((accused))~~ respondent was not given a reasonable opportunity to prepare and to present a response as provided by the student conduct code.

(b) The hearing authority misinterpreted the student conduct code.

(c) To determine whether the decision reached by the hearing authority was based on the information presented and that ~~((that))~~ information was sufficient to reasonably establish that a violation of the conduct code did or did not occur based on a preponderance of the evidence.

(d) To determine whether the sanction(s) imposed were reasonable and appropriate for the associated conduct code violation(s).

(e) To consider newly discovered, material information which was not known to the appellant and could not reasonably have been discovered and presented by the appellant at

the original hearing. It is the party's obligation to present all evidence at the time of the original hearing. The university is not obligated to grant an appeal and conduct a new hearing when parties do not take reasonable efforts to prepare their cases for the original hearing.

(2) Filing: Appeals may be filed following a conduct review hearing, subject to the following provisions:

(a) The appeal must be submitted to the director of student rights and responsibilities within ten calendar days from service of the council's decision following a council hearing and within twenty-one calendar days from service of a decision from a summary hearing, from service of the council's decision;

(b) The appeal shall be in writing and shall include:

(i) The appellant's name;

(ii) The nature of the decision and sanctions reached by the hearing official;

(iii) The basis, as described in subsection (1) of this section, for the appeal; and

(iv) What remedy the appellant is seeking.

(c) In cases of sexual harassment or sexual misconduct, the other party must be given a copy of the appeal and provided with an opportunity to provide his/her own written response to the appeal within three business days.

(3) Appeal authorities:

(a) For summary hearings heard by the conduct review officer, appeals are determined by the student disciplinary council.

(b) For student disciplinary council hearings, appeals are determined by the ~~((dean of students))~~ vice president for student affairs.

(4) Forwarding of appeals: The director of SRR shall forward the appeal to the appropriate appeal authority. The submitted appeal will include, at a minimum, the appellant's written appeal and the written report of the case. The director of SRR may also forward any other written records related to the case.

(5) Review of appeals:

(a) Before rendering a decision, the appeal authority may request additional information or explanation from any of the parties to the proceedings.

(b) Except as required to explain the basis of new information, an appeal shall be limited to a review of the verbatim record of the conduct review hearing and supporting documents.

(c) In making its decision, the appeal authority will only consider the written record before it, the appellant's notice of appeal, the other party's response, and other information and/or explanation it has requested from the parties to the proceedings.

(6) Decisions: After reviewing the appeal, the appeal authority may affirm, reverse, or remand the decision(s) of the hearing authority.

(7) Remanded cases: In cases where the appeal authority remands the decision or sanction(s) of the hearing authority, the case will be returned to the hearing authority for reconsideration or other action as specified by the appeal authority. Following such reconsideration, the hearing authority will return the case to the appeal authority for further review/action. The appeal authority will then complete the appeal

process or remand the case again. No appeal may, however, be remanded more than two times. After a case has been remanded twice, the appeal authority must affirm or reverse the decision and affirm, reverse, or modify the sanctions.

(8) Sanctions: The appeal authority may affirm, reverse, remand, or modify the sanctions assigned to the ~~((accused))~~ respondent. When determining sanctions, the appeal authority may consider the complete record of the ~~((accused's))~~ respondent's prior conduct and academic performance in addition to all other information associated with the case.

(9) Notification: Once the appeal authority has made a final decision to affirm or reverse and/or to modify the sanctions assigned, the appeal authority shall forward the decision to the director of SRR. The director of SRR shall serve the ~~((accused))~~ respondent, and, in cases of harassment or sexual misconduct, notify the complainant and victim, with a brief written statement setting forth the outcome of the appeal.

(10) Further proceedings. The appeal authority's decision is final and no further appeals may be made under the student conduct code. Judicial review of the university's decision may be available under chapter 34.05 RCW.

(11) Appeals standards:

(a) Appeal authorities must weigh all pertinent information presented to them in determining whether sufficient evidence exists to support reversal or modification of decisions or sanctions.

(b) For appeals based on a deviation from established procedures, such deviations will not be a basis for sustaining an appeal unless the alleged deviation materially changed the outcome of the case or the sanctions imposed.

AMENDATORY SECTION (Amending WSR 15-24-050, filed 11/23/15, effective 12/24/15)

**WAC 172-121-140 Interim restriction.** In situations where there is cause to believe that a student or a student organization ~~((endangers))~~ possess an immediate danger to the health, safety, or welfare of themselves, the university community, or property of the university community, the dean of students may take immediate action(s) against the student or student organization without prior notice or hearing.

Simultaneous with such action(s), the dean of students will refer the charges to the conduct review officer, who will process such charges in accordance with the provisions of this student conduct code.

Interim restriction is subject to the following:

(1) Interim restriction actions may only be imposed in the following situations:

(a) When a student or student organization poses an immediate threat to:

(i) The health, safety or welfare of any part of the university community or public at large;

(ii) The student's own physical safety and well-being; or

(iii) Any property of the university community; or

(b) When it is believed that the student's or student organization's continued attendance or presence may cause disorder, substantially interfere with or impede the lawful activities of others, or imperil the physical or mental health and safety of members of the university community ~~((or~~

~~((c) When a student is undergoing criminal proceedings for any felony charge)).~~

(2) During the interim restriction period, a student may be restricted by any or all of the following means:

(a) Denial of access ~~((s))~~ including, but not limited to: Assignment to alternate university housing or removal from university housing, limitation of access to university facilities, or restriction of communication with specific individuals or groups;

(b) Interim suspension, including temporary total removal from the university or restriction of access to campus;

(c) Mandatory medical/psychological assessment of the student's capability to remain in the university.

(3) The dean of students will determine what restriction(s) will be placed on a student.

(4) All interim restrictions that involve any type of restriction from any university premises will be accomplished by giving a notice against trespass. The notice against trespass may be given by any manner specified in WAC 172-122-200.

(5) The dean of students will prepare a brief memorandum for record containing the reasons for the interim restriction. The dean of students will serve the memorandum on the restricted student and notify all other persons or offices bound by it. At a minimum, the memorandum will state:

(a) The alleged act(s) or behavior(s) of the student or student organization which prompted the interim restriction;

(b) How those alleged act(s) or behavior(s) constitute a violation of the student conduct code; ~~((and))~~

(c) How the circumstances of the case necessitated the interim restriction action(s); and

(d) The date, time, and location for an emergency hearing with the vice president for student affairs.

(6) In cases alleging sexual harassment, sexual misconduct, domestic violence, relationship violence, and/or stalking, the complainant will be provided with notice of any interim restrictions that relate directly to the complainant.

(7) Appeals.

~~((In all cases, the student or student organization may appeal the interim restriction to the vice president for student affairs.))~~ The vice president for student affairs, or designee, will conduct an emergency hearing with the student or student organization subject to the interim restriction within ten business days after the interim restriction action is taken. The student may appear at the hearing telephonically and may be represented by counsel.

(b) In cases alleging sexual harassment, sexual misconduct, domestic violence, relationship violence, and stalking, if an interim restriction is imposed, the student, the student organization, and the complainant may appeal the interim restriction using the process outlined in this subsection. Also, in such cases, if an appeal is filed, all parties shall be given notice of the appeal and shall be provided the opportunity to participate in the appeal proceeding.

(c) Appeals must be submitted, in writing, within ten business days after the interim restriction action is taken, unless the student requests an extension. Requests for extension will only be granted to review the following issues:

~~((i) The reliability of the information concerning the student's behavior; and~~

~~(ii) Whether the student's continued presence or prior or present behavior warrants interim restriction for the causes listed in subsection (1) of this section.~~

~~(d) As a result of the appeal, the vice president for student affairs will schedule a meeting with the accused.)~~ (d) The vice president for student affairs may have the dean of students or any other person deemed relevant attend the meeting. The ~~((accused))~~ respondent and the complainant, if he/she has the right to be present under (b) of this subsection, may have an advisor present at the meeting ~~((so long as the name of that person is provided to the director of SRR at least two business days prior to the scheduled meeting))~~.

(e) During the ~~((appeal meeting))~~ emergency appeal hearing, the vice president for student affairs will review available materials and statements. After the meeting, the vice president for student affairs may uphold, modify, or terminate the interim restriction action.

~~((8))~~ (f) The interim restriction does not replace the regular hearing process, which will proceed as quickly as feasible consistent with this chapter.

~~((9))~~ (g) Duration. An interim restriction will remain in effect until terminated, in writing, by the student disciplinary council or the vice president for student affairs.

AMENDATORY SECTION (Amending WSR 15-24-050, filed 11/23/15, effective 12/24/15)

**WAC 172-121-200 Violations.** The following are defined as offenses which are subject to disciplinary action by the university.

(1) Acts of academic dishonesty. University policy regarding academic dishonesty is governed by the university academic integrity policy.

(2) Acts of social misconduct.

(a) Abuse. Physical abuse, verbal abuse, and/or other conduct which threatens or endangers the health or safety of any person.

(b) Bullying. Bullying is behavior that is:

(i) Intentional;

(ii) Targeted at an individual or group;

(iii) Repeated;

(iv) Objectively hostile or offensive; and

(v) Creates an intimidating and/or threatening environment which produces a risk of psychological and/or physical harm.

(c) Domestic violence and relationship violence.

(i) Domestic violence means:

(A) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;

(B) Sexual assault of one family or household member by another; or

(C) Stalking of one family or household member by another family or household member.

(ii) Relationship violence is a type of domestic violence, except the acts specified above are committed by a person who is or has been in a social relationship of a romantic or

intimate nature with the victim. In determining whether such a relationship exists, the following factors are considered:

(A) The length of time the relationship has existed;

(B) The nature of the relationship; and

(C) The frequency of interaction between the parties involved in the relationship.

(d) Harassment, gender-based harassment, and sexual harassment.

(i) Harassment is conduct by any means that is sufficiently severe, pervasive, or persistent, and objectively offensive so as to threaten an individual or limit the individual's ability to work, study, participate in, or benefit from the university's programs or activities.

(ii) Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or nonconformity with gender stereotypes. Gender-based harassment violates this code and Title IX when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

(iii) Sexual harassment is unwelcome conduct of a sexual nature and may include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment violates this code and Title IX when it is sufficiently severe, pervasive, or persistent such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

In determining whether any of the above-listed types of harassment are severe, pervasive, or persistent, the university shall consider all relevant circumstances from both an objective and subjective perspective, including the type of harassment (verbal or physical); the frequency and severity of the conduct; the age, sex, and relationship of the individuals involved; the degree to which the conduct affected the victim; the setting and context in which the harassment occurred; whether other incidents have occurred at the university; and other relevant factors.

(e) Retaliation. Any actual or threatened retaliation or any act of intimidation intended to prevent or otherwise obstruct the reporting of a violation of this code is prohibited and is a separate violation of this code. Any actual or threatened retaliation or act of intimidation directed towards a person who participates in an investigation or disciplinary process under this code is prohibited and is a separate violation of this code.

(f) Sexual misconduct. ~~((Sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion, are types of sexual misconduct.))~~ Sexual misconduct includes, but is not limited to, sexual violence; indecent liberties; indecent exposure; sexual exhibitionism; sex-based cyber harassment; prostitution or the solicitation of a prostitute; peeping or other voyeurism; or going beyond the boundaries of consent, such as by allowing others to view consensual sex or the nonconsensual recording of sexual activity. Sexual violence is sexual intercourse or sexual contact with a person without his or her consent or when the person is incapable of giving consent. Consent means actual words or conduct indicating freely given agreement to the sexual act. Consent cannot be inferred

from silence, passivity, or lack of active resistance. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. Sexual activity is nonconsensual when the victim is incapable of consent by reason of mental incapacity, drug/alcohol use, illness, unconsciousness, or physical condition. ~~((Sexual misconduct also includes, but is not limited to, indecent liberties, indecent exposure, sexual exhibitionism, sex-based cyber harassment, prostitution or the solicitation of a prostitute, peeping or other voyeurism, or going beyond the boundaries of consent, such as by allowing others to view consensual sex or the nonconsensual recording of sexual activity.))~~

(g) Stalking. Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(i) Fear for their health and/or safety or the health/safety of others; or

(ii) Suffer substantial emotional distress.

(h) Unauthorized use of electronic or other devices: Making an audio or video recording of any person while on university premises without the person's prior knowledge or without their effective consent, when such a recording is of a private conversation or of images taken of a person(s) at a time and place where the person would reasonably expect privacy and where such recordings are likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, or restroom, but does not include taking pictures of persons in areas which are considered by the reasonable person to be open to public view.

(3) Property violations. Theft of, damage to, or misuse of another person's or entity's property.

(4) Weapons. Possession, carrying, discharge or other use of any weapon is prohibited on property owned or controlled by Eastern Washington University, except as permitted in (a) through (d) of this subsection. Examples of weapons under this section include, but are not limited to: Explosives, chemical weapons, shotguns, rifles, pistols, air guns, BB guns, pellet guns, longbows, hunting bows, throwing weapons, stun guns, electroshock weapons, and any item that can be used as an object of intimidation and/or threat, such as replica or look-a-like weapons.

(a) Commissioned law enforcement officers may carry weapons, which have been issued by their respective law enforcement agencies, while on campus or other university controlled property, including residence halls. Law enforcement officers must inform the university police of their presence on campus upon arrival.

(b) A person may possess a personal protection spray device, as authorized by RCW 9.91.160, while on property owned or controlled by Eastern Washington University.

(c) A person may bring a weapon onto campus for display or demonstration purposes directly related to a class or other educational activity, provided that they obtain prior authorization from the university police department. The university police department shall review any such request and may establish conditions to the authorization.

(d) Weapons that are owned by the institution for use in organized recreational activities or by special groups, such as

EWU ROTC or university-sponsored clubs or teams, must be stored in a location approved by the university police department. These weapons must be checked out by the advisor or coach and are to be used only in organized recreational activities or by legitimate members of the club or team in the normal course of the club or team's related activity.

(5) Failure to comply.

(a) Failure to comply with lawful and/or reasonable directions of university officials or law enforcement officers acting in performance of their duties on campus or affecting conduct on campus;

(b) Failure to identify oneself to university officials in their course of duty, refusal or failure to appear before university officials or disciplinary bodies when directed to do so;

(c) Failure to attend any medical treatment or evaluation program when directed to do so by the dean of students or other authorized university official.

(6) Trespassing/unauthorized use of keys.

(a) Trespass. Entering or remaining on university property without authorization.

(b) Unauthorized use of keys. Unauthorized possession, duplication, or use of university keys or access cards.

(7) Deception, forgery, fraud, unauthorized representation.

(a) Knowingly furnishing false information to the university.

(b) Forgery, alteration, or misuse of university documents, records, or instruments of identification. This includes situations of identity theft where a person knowingly uses or transfers another person's identification for any purpose.

(c) Forgery or issuing a bad check with intent to defraud.

(d) Unauthorized representation. The unauthorized use of the name of the university or the names of members or organizations in the university community.

(8) Safety.

(a) Intentionally activating a false fire alarm.

(b) Making a bomb threat.

(c) Tampering with fire extinguishers, alarms, or safety equipment.

(d) Tampering with elevator controls and/or equipment.

(e) Failure to evacuate during a fire, fire drill, or false alarm.

(9) Alcohol, drugs, and controlled substances.

(a) Alcohol and substance violations. Use, possession, distribution, or sale of alcoholic beverages (except as permitted by university policy and state law) is prohibited. Under no circumstances may individuals under the age of twenty-one use, possess, distribute, manufacture or sell alcoholic beverages. Public intoxication is prohibited.

(b) Drugs and paraphernalia.

(i) Use, possession, distribution, manufacture, or sale of ~~((marijuana, drug paraphernalia and/or))~~ illegal drugs, paraphernalia, narcotics or controlled substances, is prohibited.

(ii) Use, possession, distribution, manufacture, or sale of marijuana is prohibited except for reasons permitted under EWU Policy 602-01 (drug and alcohol abuse prevention).

(iii) Being under the influence of marijuana or an illegal substance, while on property owned or operated by the university, is prohibited. Being under the influence of a controlled substance, except when legally prescribed by a



licensed medical practitioner, is also prohibited while on property owned or operated by the university.

(10) Hazing. Any act which, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in, a group or organization:

- (a) Endangers the mental or physical health or safety of any student or other person;
- (b) Destroys or removes public or private property; or
- (c) Compels an individual to participate in any activity which is illegal or contrary to university rules, regulations or policies.

The express or implied consent of any participant is not a defense. A person who is apathetic or acquiesces in the presence of hazing violates this rule.

(11) Disruptive conduct/obstruction.

(a) Disruptive conduct. Conduct which unreasonably interferes with any person's ability to work or study, or obstructs university operations or campus activities.

(b) Disorderly conduct. Conduct that is disorderly, lewd, indecent or a breach of peace.

(c) Obstruction. Obstruction of the free flow of pedestrian or vehicular traffic on university premises or at university-sponsored or university-supervised events.

~~((d) Demonstration. Participation in a campus demonstration which violates university regulations.))~~

(12) Violations of other laws, regulations and policies.

- (a) Violation of a local, county, state, or federal law.
- (b) Violation of other university policies, regulations, or handbook provisions.

(13) Assisting/attempts. Soliciting, aiding, abetting, concealing, or attempting conduct in violation of this code.

(14) Acts against the administration of this code.

(a) Initiation of a complaint or charge knowing that the charge was false or with reckless disregard of its truth.

(b) Interference with or attempt to interfere with the enforcement of this code, including but not limited to, intimidation or bribery of hearing participants, acceptance of bribes, dishonesty, or disruption of proceedings and hearings held under this code.

(c) Knowing violation of the terms of any disciplinary sanction or attached conditions imposed in accordance with this code.

(15) Other responsibilities:

(a) Guests. A student, student group or student organization is responsible for the conduct of guests on or in university property and at functions sponsored by the university or sponsored by any recognized university organization.

(b) Students studying abroad. Students who participate in any university sponsored or sanctioned foreign country study program shall observe the following rules and regulations:

- (i) The laws of the host country;
- (ii) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;
- (iii) Any other agreements related to the student's study program in the foreign country; and
- (iv) The student conduct code.

(16) Student organization and/or group offenses. Clubs, organizations, societies or similarly organized groups in or

recognized by the university and/or ASEWU are subject to the same standards as are individuals in the university community. The commission of any of the offenses in this section by such groups or the knowing failure of any organized group to exercise preventive measures relative to violations of the code by their members shall constitute a group offense.

AMENDATORY SECTION (Amending WSR 15-24-050, filed 11/23/15, effective 12/24/15)

**WAC 172-121-210 Sanctions.** If any student or student organization is found to have committed any of the offenses described in WAC 172-121-200, one or more of the sanctions described in this section may be imposed against the student or student organization. Imposed sanctions are effective as of the date the council issues its decision unless the decision specifically identifies an alternative date. Failure to comply with any imposed sanction may result in additional sanctions.

(1) Individual student sanctions:

(a) Admonition: An oral statement to a student that he/she has violated university rules and regulations.

(b) Warning: A notice to the student or student organization that they have violated the standards for student conduct and that any repeated or continuing violation of the same standard, within a specified period of time, may result in more severe disciplinary action. A warning may be verbal or written.

(c) Censure: A written reprimand for violation of specified regulations. A censure will also state that more severe disciplinary sanctions may be imposed if the student or student organization is found in violation of any regulation within a stated period of time

(d) Disciplinary probation: A formal action which places one or more conditions, for a specified period of time, on the student's continued attendance. Disciplinary probation sanctions will be executed in writing and will specify the probationary conditions and the period of the probation. A disciplinary probation notice will also inform the student that any further misconduct will automatically involve consideration of suspension. Probationary conditions may include, but are not limited to:

- (i) Restricting the student's university-related privileges;
- (ii) Limiting the student's participation in extra-curricular activities; and/or
- (iii) Enforcing a "no contact" order which would prohibit direct or indirect physical and/or verbal contact with specific individuals or groups.

(e) Restitution: Reimbursement to the university or others for damage, destruction, or other loss of property suffered as a result of theft or negligence. Restitution also includes reimbursement for medical expenses incurred due to conduct code violations. Restitution may take the form of appropriate service or other compensation. Failure to fulfill restitution requirements will result in cancellation of the student's registration and will prevent the student from future registration until restitution conditions are satisfied.

(f) Fines: The university conduct review officer and the student disciplinary council may assess monetary fines up to a maximum of four hundred dollars against individual students for violation of university rules or regulations or for

failure to comply with university standards of conduct. Failure to promptly pay such fines will prevent the student from future registration. Failure to pay may also result in additional sanctions.

(g) Discretionary sanctions: Work assignments, service to the university community or other related discretionary assignments for a specified period of time as directed by the hearing authority.

(h) Loss of financial aid: In accordance with RCW 28B.30.125, a person who participates in the hazing of another forfeits entitlement to state-funded grants, scholarships or awards for a specified period of time. Loss of financial aid is subject to the processes outlined in this chapter except any such loss must also be approved by the dean of students and the vice president for student affairs before such sanction is imposed.

(i) Assessment: Referral for drug/alcohol or psychological assessment may be required. Results of the assessment may lead to the determination that conditions of treatment and further assessment apply to either continued attendance or return after a period of suspension.

(j) Suspension: Exclusion from classes and other privileges or activities for a specified period of time. Suspensions will be executed through a written order of suspension and will state all restrictions imposed by the suspension, as well as the suspension period and what conditions of readmission, if any, are ordered. Suspension is subject to the processes outlined in this chapter except any suspension must also be approved by the dean of students and the vice president for student affairs before such sanction is imposed.

(k) Expulsion: Permanent separation of the student from the university with no promise (implied or otherwise) that the student may return at any future time. The student will also be barred from university premises. Expulsion actions will be accomplished by issuing both an order of expulsion and a notice against trespass. The notice against trespass may be given by any manner specified in chapter 9A.52 RCW. Expulsion is subject to the processes outlined in this chapter except any expulsion must also be approved by the dean of students and the vice president of student affairs before such sanction is imposed.

(l) Loss of institutional, financial aid funds: Formal withholding of all or a part of institutional funds currently being received by the student or promised for future disbursement to the student for a specified period of time. Loss of financial aid is subject to the processes outlined in this chapter except any such loss must be approved by the dean of students and the vice president for student affairs before such sanction is imposed.

(m) Revocation of degree: A degree awarded by the university may be revoked for fraud, misrepresentation, or other violation of law or university standards. Revocation of a degree is subject to processes outlined in this chapter except that revocation of a degree must also be approved by the university president.

(2) Student organizations and/or group sanctions: Any of the above sanctions may be imposed in addition to those listed below:

(a) Probation: Formal action placing conditions on the group's continued recognition by or permission to function at

the university. The probationary conditions will apply for a specified period of time. Violation of the conditions of probation or additional violations while under probation may result in more severe sanctions;

(b) Social probation: Prohibition of the group from sponsoring any organized social activity, party or function, or from obtaining a permission for the use of alcoholic beverages at social functions for a specified period of time;

(c) Restriction: The temporary withdrawal of university or ASEWU recognition for a group, club, society or other organization. Restriction is subject to the processes outlined in this chapter except any restriction must also be approved by the dean of students and the vice president of student affairs before such sanction is imposed;

(d) Revocation: The permanent withdrawal of university or ASEWU recognition for a group, club, society or other organization. Revocation is subject to the processes outlined in this chapter except any revocation must also be approved by the dean of students and the vice president of student affairs before such sanction is imposed;

(e) Additional sanctions: In addition to or separately from the above, any one or a combination of the following may be concurrently imposed on the group:

- (i) Exclusion from intramural competition as a group;
- (ii) Denial of use of university facilities for meetings, events, etc.;
- (iii) Restitution; and/or
- (iv) Fines.

## WSR 17-07-078

### PROPOSED RULES

### LIQUOR AND CANNABIS

### BOARD

[Filed March 17, 2017, 9:31 a.m.]

Supplemental Notice to WSR 16-24-094.

Preproposal statement of inquiry was filed as WSR 16-09-117 and 16-08-127.

Title of Rule and Other Identifying Information: New WAC 314-55-0995 Laboratory certification and accreditation requirements, 314-55-1025 Proficiency testing, 314-55-1035 Laboratory certification—Suspension and revocation and 314-55-108 Pesticide action levels; and amending WAC 314-55-101 Sampling protocols, 314-55-102 Quality assurance testing, and 314-55-103 Good laboratory practice checklist.

Hearing Location(s): Washington State Liquor and Cannabis Board (WSLCB), Board Room, 3000 Pacific Avenue S.E., Olympia, WA 98504, on May 3, 2017, at 10:00 a.m.

Date of Intended Adoption: On or after May 17, 2017.

Submit Written Comments to: Joanna Eide, Policy and Rules Coordinator, P.O. Box 43080, Olympia, WA 98504, email rules@lcb.wa.gov, fax (360) 664-9689, by May 3, 2017.

Assistance for Persons with Disabilities: Contact Joanna Eide by April 26, 2017, (360) 664-1622.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of

this proposal is to make necessary rule changes for laboratory certification requirements, proficiency testing, pesticide action levels, requirements to promote lab accuracy and consistency, and quality assurance requirements.

**Reasons Supporting Proposal:** Rule changes are needed to protect consumer safety through ensuring laboratories employ appropriate testing methodologies and achieve accurate testing results for marijuana. Creating proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories. Additionally, current permanent rules provide how a laboratory may be certified by WSLCB, but do not contain provisions on what a laboratory must do to remain certified or how WSLCB may suspend or revoke the certification of a laboratory. WSLCB needs the authority to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results. Rules for pesticide action levels are needed for pesticides not allowable for use in the production of marijuana. Currently, permanent rules contain a zero tolerance for disallowed pesticides, which is unworkable and virtually untestable. WSLCB needs action levels for pesticides to determine when a sample should fail quality assurance testing and when a recall should be initiated.

**Statutory Authority for Adoption:** RCW 69.50.342 and 69.50.345.

**Statute Being Implemented:** RCW 69.50.342 and 69.50.345.

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

**Name of Proponent:** WSLCB, governmental.

**Name of Agency Personnel Responsible for Drafting:** Joanna Eide, Policy and Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1622; **Implementation:** Marijuana Examiners Unit, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1600; and **Enforcement:** Justin Nordhorn, Chief Enforcement, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

Chapter 19.85 RCW, the Regulatory Fairness Act, requires an analysis of the economic impact proposed rules will have on regulated businesses. Preparation of a small business economic impact statement (SBEIS) is required when proposed rules will impose more than minor costs on businesses.

"Minor cost" means a cost that is less than one percent of annual payroll or the greater of either .3 percent of annual revenue or \$100.

"Small business" means any business entity that is owned and operated independently from all other businesses and has fifty or fewer employees.

**Describe the Proposed Rule Changes, Including a Brief History of the Issue and an Explanation of Why the Proposed Rule Change is Needed:** Rule changes are needed regarding laboratory certification requirements, proficiency

testing, pesticide action levels, requirements to promote lab accuracy and consistency, and quality assurance requirements. Rule changes are needed to protect consumer safety through ensuring laboratories employ appropriate testing methodologies and achieve accurate testing results for marijuana. Creating proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories. Additionally, current permanent rules provide how a laboratory may be certified by WSLCB, but do not contain provisions on what a laboratory must do to remain certified or how WSLCB may suspend or revoke the certification of a laboratory. WSLCB needs the authority to suspend or revoke the certification of a laboratory that does not follow rule requirements for testing or for those laboratories that do not consistently achieve accurate testing results.

Rules for pesticide action levels are needed for pesticides not allowable for use in the production of marijuana. Currently, permanent rules contain a zero tolerance for disallowed pesticides, which is unworkable and virtually untestable. WSLCB needs action levels for pesticides to determine when a sample should fail quality assurance testing and when a recall should be initiated.

WSLCB convened an informal work group to gather information and receive recommendations for the changes proposed in this rule making. The work group was comprised of WSLCB staff, certified labs, marijuana businesses, WSLCB's certifying and auditing vendor, and other state agencies, including the departments of health, agriculture, and ecology. Several meetings were held over a period of six months to gather information and suggestions for this rule making in addition to the comments and recommendations received as part of the rule-making process.

**Identify Which Businesses are Required to Comply with the Proposed Rule Changes. How many businesses of each type are involved? (Use the North American Industry Classification System (NAICS) codes where possible):** There are no NAICS codes for marijuana production, processing, or retail businesses. There is no current data on payroll for marijuana production, processing, retail, or testing businesses. Certified labs and licensed producers and processors will be required to adhere to the proposed rule changes.

The following numbers are based on information pulled on March 3, 2017.

Certified Laboratories: 18

Licensed Producers/Processors: 968

Licensed Producers: 169

Licensed Processors: 152

Producers by Tier (active):

- Tier 1 (up to 2,000 sq. ft.): 210
- Tier 2 (2,000 - 10,000 sq. ft.): 492
- Tier 3 (10,000 - 30,000 sq. ft.): 435

**Summary of the Compliance Requirements Included in the Proposed Rule Changes:** The proposed rules include the following compliance requirements:

- Increases and adjustments to quality assurance (QA) testing requirements.

- Additions, including recordkeeping and testing methodology adjustments to the good laboratory practice checklist in WAC 314-55-103, incorporating 5.4 of ISO 17025.
- Proficiency testing (PT) requirements for labs seeking certification and for certified labs to maintain certification.
- Pesticide action levels to detect compliance with restrictions on the use of pesticides.
- Sample labeling requirements are adjusted to clearly mark samples with all necessary information for identification.

**Analyze the Probable Cost of Compliance. Identify the probable costs to comply with the proposed rule changes, including: Cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue:** Lab equipment cost estimates for testing water activity rate (new): \$1200-\$4000. These equipment costs are one-time costs. Ongoing costs are estimated at ten percent of the initial equipment cost per year, at a rate of \$120-\$400.

Lab equipment costs for mycotoxin testing (new): Mycotoxin testing can be accomplished with a liquid chromatography system with a mass spectrometer or by purchasing enzyme-linked immunosorbent assay kits. It is estimated that about half of the certified labs could use existing equipment to perform these new testing requirements.

Increased inspections for auditing of certified labs due to changes with the good laboratory practice checklist in WAC 314-55-103. These changes also include increased record-keeping requirements and may require increased training of employees of certified labs.

Increased residual solvent testing requirements will also result in some additional administrative and operational costs for certified labs.

Labs may collect samples if they choose, which may result in an increased cost to producers and processors should they agree to this, but would be an optional cost.

Some labs estimate the need for all additional equipment to adjust to the changes in the proposed rules will cost around \$500,000. If this is true, they estimate that if sample volumes increase at a rate of fifty percent per year and assume that labs intend to aim for a twenty-four month return on investment for purchasing that equipment, the five labs that do the majority of the QA testing in Washington will need to increase average per sample price for QA testing by \$17.42 to meet that return on investment goal. However, WSLCB's certifying and auditing vendor believes that around half of the currently certified labs already have the equipment to comply with the majority of the proposed changes in this rule making.

**Professional services:** Labs will need to use professional services of WSLCB approved PT providers. PT - currently required by emergency rule. This rule making will make those requirements permanent. Under these proposed rules, labs must successfully complete PT for each field of testing the lab seeks to be certified for. Certified labs must participate in two rounds of PT per year for each field of testing and maintain a passing score on an ongoing basis, in a minimum

of two out of three successive rounds of PT. Currently, there are three PT programs available: Potency analysis, microbial analysis, and residual solvents. As more PT programs for other fields of testing become available, certified labs will be required to complete those programs for the fields of testing that the lab is certified for. Costs for compliance should decrease over time as more PT programs become available on the market and competition increases. Examples of PT testing costs range from \$75 for one calibration to \$575 for a blind PT for THC and cannabinoil. Many PT rounds are priced around \$250 per round, though some are higher.

Marijuana producers and processors will have to continue to use the services of one or more certified labs to provide required quality assurance tests under current rules and the proposed changes to rules in this rule making.

Whether the increased costs will result in lost sales or revenue: Licensed marijuana businesses may see a small loss comparative to overall wholesale value of lots in sales due to increased testing requirements and increased costs for labs to comply with the requirements, which will likely be passed on to the marijuana businesses by the labs. Increased testing costs and administrative costs for certified lab compliance with the changes may be offset by increases to testing charges to licensed marijuana producers and processors. These increased costs may be passed on to consumers at retail.

**Analyze Whether the Proposed Rule Changes May Impose More Than Minor Costs on Businesses in the Industry:** "Minor cost" means a cost that is less than one percent of annual payroll or the greater of either .3 percent of annual revenue or \$100. Based upon the available data, costs of compliance and administrative costs, and increases to testing requirements, WSLCB concludes that the proposed rule changes may result in more than minor costs to businesses in the marijuana industry depending on the business size involved.

Average wholesale price per gram of marijuana was \$2.98 over the past year (2016). The average retail price of marijuana per gram, including excise tax, was \$8.61 in the month of October 2016. On average, the price per gram of marijuana from October 2015 to October 2016 was approximately \$8.67/gram. Since WSLCB is reverting to the lot/batch sizes in current rule and the sample sizes as provided in current rule in this proposal, no losses should be incurred as far as in the wholesale value of marijuana.

Lot size	Total lot wholesale value	# of samples	Total grams	Costs (wholesale sales)
Up to 5 lbs. (2268 grams)	\$6,758.64	3	6	\$17.88

The impact of costs incurred will depend on the amount of marijuana produced or processed by licensees, which varies by licensee.

According to industry and through researching pricing for QA tests that currently certified labs offer, pricing estimated averages for QA testing under current rules and the proposed changes in this rule making are as follows:

Test	Current rule costs	Proposed rule costs
Potency	\$40.00	\$40.00 (no change)
Microbial	\$40.00	\$40.00 (no change)
Mycotoxin	N/A	\$20.00
Residual Solvent	\$40.00	\$60.00

As detailed above, costs for testing for each lot will increase, on average, by \$40.00 where mycotoxin testing is required. Mycotoxin testing is not required in every case, and replaces the microbiological screening requirements in many cases where it is required. These estimates are conservative, so actual cost impacts may be lower.

Costs may be passed along to the ultimate consumer at retail. Some retailers have stated screening marijuana products for toxins is a selling point and converts customers to the regulated marijuana market rather than the illicit market.

**Determine Whether the Proposed Rule May Have a Disproportionate Impact on Small Businesses as Compared to the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rule:** It is likely that the quality assurance testing changes will disproportionately impact smaller producers and processors simply because they produce smaller amounts of product overall, so costs are a larger percentage of their business costs. However, the changes proposed in this supplemental CR-102 which revert back to the lot size and sample sizes in current rules will avoid the cost increases that were associated with the proposed changes in the CR-102.

It is estimated that virtually all of the certified labs qualify as small businesses. For this reason, all changes to rule requirements will impact those small businesses.

**If the Proposed Rule Changes Have a Disproportionate Impact on Small Businesses, Identify the Steps Taken to Reduce the Costs of the Rule on Small Businesses. If the costs cannot be reduced, provide a clear explanation of why or the justification for not reducing costs:** WSLCB initially considered adopting a requirement that labs seeking certification to test marijuana and current certified labs achieve ISO 17025 accreditation as a condition of acquiring and maintaining WSLCB certification. The costs associated with achieving ISO accreditation would have been quite substantial and ongoing and labs expressed concerns relative to that. Instead, WSLCB worked with its certifying and auditing vendor to incorporate certain provisions (section 5.4 - Test and Calibration Methods and Method Validation) from ISO accreditation into its good laboratory standards checklist, rather than requiring ISO accreditation. This change was also recommended by certified labs that participated in informal work group discussions. This change will help to achieve the goals of promoting good laboratory practices, sound testing methodologies, consistency, and accuracy while avoiding the higher costs of ISO accreditation in addition to lab certification costs. The new items in the good laboratory standards checklist in WAC 314-55-103 will increase costs and compli-

ance requirements for labs, including increased auditing costs, but at a lesser expense than ISO accreditation.

WSLCB initially proposed changes to lot sizes and sampling requirements, as well as requiring three separate potency tests as part of the CR-102 for this rule making. The changes proposed in this supplemental CR-102 revert back to the lot size and sample sizes/amounts in current rules and single potency test requirement, which will avoid the cost increases that were associated with the proposed changes to those requirements in the CR-102.

Added mycotoxin testing as a required QA test. This change is proposed as a response to removal of certain microbiological test requirements, and due to the value to consumer safety that screening for mycotoxin affords. This change makes mycotoxin testing requirements consistent with the Washington department of health's rules for compliant products in chapter 246-70 WAC. This adjustment does not result in a net increase to testing costs where it replaces microbiological screening, and some industry members estimate that licensed marijuana producers in Washington could collectively save upwards of \$30 million due to the adjustments in the microbiological limits tests. However, due to other changes in QA testing requirements, specifically with the requirement of three potency tests rather than one, industry members estimate a twenty-five percent increase to testing costs. This estimate may be higher than actual cost impacts due to mitigating factors, such as the removal of some testing requirements, flexibility of lot sizes, and ability to pass along additional costs to consumers. Some industry members have expressed that the monetary benefit of the proposed rules to the marijuana producers may "far outweigh any costs associated with enhanced quality assurance."

Adjustments to when testing must be performed are proposed to allow for greater flexibility while still ensuring the proper tests are performed prior to products being sold at retail. This change was made to promote flexibility aimed at cost savings. Specifically, it will avoid having to test certain products (concentrates) twice prior to being sold at retail.

Costs will likely be passed along to consumers at retail, which is a mitigating factor. The additional costs associated with the increased testing, proficiency testing, and good laboratory practice checklist enhancements are necessary to promote accurate testing and information for consumers. Many of the changes proposed in this rule making are to include standards that are common for environmental labs which are similar to certified labs that test cannabis in Washington and are necessary to promote consistency, accuracy, and the proper information provided to consumers at retail.

Though these proposed rule changes will mean increased costs for businesses in the marijuana industry, these costs are justifiable. Rule changes are needed to protect consumer safety and convey accurate information to consumers through ensuring laboratories employ appropriate testing methodologies and achieve accurate testing results for marijuana. Creating proficiency testing requirements to achieve and maintain certification and parameters for laboratories will promote accuracy and accountability in marijuana testing by certified laboratories.

**Describe How Small Businesses Were Involved in the Development of the Proposed Rule:** WSLCB staff held sev-

eral meetings with industry members, certified labs, WSLCB's certifying and auditing vendor, and other state agencies to inform the proposed rule changes in this CR-102 and to gather information relating to costs and effectiveness of potential rule changes. WSLCB staff collected comments both in writing and verbally from industry members as part of the rule-making process and informal work group meetings. Many of the changes included in this rule making are directly in response to requests from certified labs and the cannabis industry, as well as recommendations from partner science agencies. Additionally, the Cannabis Alliance in conjunction with the Washington Cannabis Laboratory Association conducted a survey of marijuana licensees at each level of the cannabis market which it shared with WSLCB to assist in the development of this SBEIS. WSLCB received and assessed a large volume of comments as part of the formal comment process with the CR-102. WSLCB did additional outreach and information gathering with its certifying vendor, other states, and licensees and labs to develop the changes included in this supplemental CR-102.

**Identify the Estimated Number of Jobs That Will Be Created or Lost as the Result of Compliance with the Proposed Rule Changes:** It is possible that these proposed rule changes could increase jobs in laboratories as additional tests would be required, which may create a need to hire additional staff. It is unclear whether the proposed changes will cause job losses as increased costs may be offset by passing along to the consumer at retail.

A copy of the statement may be obtained by contacting Joanna Eide, Policy and Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, phone (360) 664-1622, fax (360) 664-9689, email Joanna.Eide@lcb.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis was not required under RCW 34.05.328 because the proposed new rule does not qualify as a significant legislative rule or other rule requiring a cost-benefit analysis under RCW 34.05328 [34.05.328](5).

March 17, 2017  
Jane Rushford  
Chair

## NEW SECTION

**WAC 314-55-0995 Laboratory certification and accreditation requirements.** The following requirements apply to third-party labs seeking certification by the WSLCB or its designee to do quality assurance testing on marijuana and marijuana products in Washington state, and for certified third-party laboratories (certified labs) to remain certified by the WSLCB. The requirements provided in this section are continuing requirements, and must be adhered to and maintained for a third-party lab to remain certified. The WSLCB may summarily suspend a lab's certification if a certified lab is found out of compliance with the requirements of this chapter.

(1) A third-party laboratory must be certified by the WSLCB or their vendor as meeting the WSLCB's accreditation and other requirements prior to conducting quality assurance tests required under this chapter. Certified labs must

conspicuously display the certification letter received by the WSLCB upon certification at the lab's premises in a conspicuous location where a customer may observe it unobstructed in plain sight.

(2) A person with financial interest in a certified lab may not have direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests. A person with direct or indirect financial interest in a certified lab must disclose to the WSLCB by affidavit any direct or indirect financial interest in a licensed marijuana producer or processor.

(3) The following provisions are conditions of certification for third-party testing labs. Failure to adhere to the below requirements may result in the suspension or revocation of certification.

(a) Each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director must possess the following minimum qualifications:

(i) A doctorate in the chemical or microbiological sciences from a college or university accredited by a national or regional certifying authority with a minimum of two years' post-degree laboratory experience;

(ii) A master's degree in the chemical or microbiological sciences from a college or university accredited by a national or regional certifying authority with a minimum of four years' of post-degree laboratory experience; or

(iii) A bachelor's degree in the chemical or microbiological sciences from a college or university accredited by a national or regional certifying authority with a minimum of six years of post-education laboratory experience.

(b) Certified labs must follow the analytical requirements most current version of the *Cannabis Inflorescence and Leaf Monograph* published by the *American Herbal Pharmacopoeia* or notify the WSLCB or its designee what alternative scientifically valid testing methodology the lab is following for each quality assurance test. Third-party validation by the WSLCB or its designee is required for any monograph or analytical method followed by a certified lab to ensure the methodology produces scientifically accurate results prior to use of alternative testing methods to conduct required quality assurance tests.

(c) The WSLCB may require third-party validation and ongoing monitoring of a certified lab's basic proficiency to correctly execute the analytical methodologies employed by the certified lab. The WSLCB may contract with a vendor to conduct the validation and ongoing monitoring described in this subsection. The certified lab must pay all vendor fees for validation and ongoing monitoring directly to the WSLCB's vendor.

(4) Certified labs must allow the WSLCB or the WSLCB's vendor to conduct physical visits and inspect related laboratory equipment, testing and other related records during normal business hours without advance notice.

(5) As a condition of certification, labs must adopt and follow minimum good lab practices (GLPs) as provided in WAC 314-55-103, and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance (QC/QA) program as specified by the WSLCB. The WSLCB

or authorized third-party organization (WSLCB's designee) may conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(6) The WSLCB or its designee will take immediate disciplinary action against any certified lab that fails to comply with the provisions of this chapter or falsifies records related to this section including, without limitation, revoking the certification of the certified lab.

**AMENDATORY SECTION** (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

**WAC 314-55-101 Quality assurance sampling protocols.** (1) ~~((a))~~ To ensure ~~((that))~~ quality assurance samples submitted to certified third-party ~~((labs))~~ laboratories ~~(certified labs)~~ are representative from the lot or batch from which they were sampled as required in RCW 69.50.348, licensed producers, licensed processors, certified ~~((third-party laboratories))~~ labs, and their employees must adhere to the ~~((following))~~ minimum sampling protocols as provided in this section.

~~((b))~~ **(2) Sampling protocols for all marijuana product lots and batches:**

(a) Samples must be deducted in a way that is most representative of the lot or batch and maintains the structure of the marijuana sample. Licensees, certified ~~((third-party laboratories))~~ labs, and their employees may not adulterate or change in any way the representative sample from a lot or batch before submitting the sample to certified ~~((third-party laboratories))~~ labs. This includes adulterating or changing the sample in any way as to inflate the level of potency, or to hide any microbiological contaminants from the required microbiological screening such as, but not limited to:

(i) Adulterating the sample with kief, concentrates, or other extracts;

(ii) Treating a sample with solvents to hide the microbial count of the lot or batch from which it was deducted. This ~~((is not meant to be construed as prohibiting))~~ subsection does not prohibit the treatment of failed lots or batches with methods approved by the WSLCB; ~~((and))~~ or

(iii) Pregrinding a flower lot sample.

~~((2))~~ **Sampling protocols for all marijuana product lots and batches:** The deduction of all quality assurance samples must adhere to the following sampling protocols:

~~((a))~~ (b) All samples must be taken in a sanitary environment using sanitary practices and ensure facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapters 16-165 and 16-167 WAC.

~~((b))~~ (c) Persons ~~((taking))~~ collecting samples must wash their hands prior to ~~((deducting samples))~~ collecting a sample from a lot or batch, wear appropriate gloves while preparing or deducting the lot or batch for ~~((sampling))~~ sample collection, and must use sanitary utensils and storage devices when collecting samples.

~~((c))~~ (d) Samples must be placed in a ~~((sterile))~~ sanitary plastic or glass container, and stored in a location that prevents the propagation of pathogens and other contaminants(~~(-~~

~~This includes low light levels, mild temperatures, and low humidity environments.~~

~~((d))~~, such as a secure, low-light, cool and dry location.

(e) The licensee ~~((shall))~~ must maintain the lot or batch from which the sample was deducted in a secure, low-light, cool, and dry location to prevent the marijuana from becoming contaminated or losing its efficacy.

(f) Each quality assurance sample must be clearly marked "quality assurance sample" and be labeled with the following information:

(i) The sixteen digit identification number generated by the traceability system;

(ii) The license number and name of the certified lab receiving the sample;

(iii) The license number and trade name of the licensee sending the sample;

(iv) The date the sample was collected; and

(v) The weight of the sample.

**(3) Additional sampling protocols for flower lots:**

(a) Licensees or certified ~~((third-party labs are required to deduct four))~~ labs must collect a minimum of four separate samples from each marijuana flower lot ~~((in order to ensure representativeness of the lot. The four))~~ up to five pounds. Licensees or certified labs may collect more samples than this minimum, but must not collect less. The samples must be of roughly equal weight ~~((s))~~ not less than one gram each ~~((s and the cumulative weight of the four samples may not be more than the maximum allowed in WAC 314-55-102)).~~

(b) The four separate samples must be taken from different quadrants of the flower lot. A quadrant is the division of a lot into four equal parts. ~~((This may be done visually or physically, but))~~ Dividing a lot into quadrants prior to collecting samples must be done in a manner that ensures the samples ~~((were deducted))~~ are collected from four evenly distributed areas of the flower lot and may be done visually or physically.

(c) The four ~~((separate))~~ samples may be placed together in ~~((a))~~ one container ~~((that conforms to))~~ conforming to the packaging and labeling requirements in subsection (2) of this section for storage and transfer to a certified ~~((third-party))~~ lab.

(4) Certified labs may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab. Certified labs may also return any unused portion of the samples.

(5) Certified ~~((third-party laboratories))~~ labs may reject or fail a sample if ~~((they))~~ the lab has reason to believe the sample was not collected in the manner required by this section, ~~((has been))~~ adulterated in any way, contaminated with known or unknown solvents, or ~~((was))~~ manipulated in a ~~((way))~~ manner that violates the sampling protocols, limit tests, or action levels.

~~((5))~~ (6) The WSLCB or its designee will take immediate disciplinary action against any licensee or certified ~~((third-party lab which))~~ lab that fails to comply with the provisions of this section or falsifies records related to this section including, without limitation, revoking the license ~~((or certificate of))~~ the licensed producer or processor, or certification of the certified ~~((third-party))~~ lab.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

**WAC 314-55-102 Quality assurance testing.** ~~((1))~~ A third-party testing lab must be certified by the WSLCB or ~~((their))~~ the WSLCB's vendor as meeting the WSLCB's accreditation and other requirements prior to conducting ~~((required))~~ quality assurance tests. ~~(Certified labs will receive a certification letter from the WSLCB and must conspicuously display this letter in the lab in plain sight of the customers. The WSLCB can summarily suspend a lab's certification if a lab is found out of compliance with the requirements of this chapter.~~

(2) A person with financial interest in a certified third-party testing lab may not have direct or indirect financial interest in a licensed marijuana producer or processor for whom they are conducting required quality assurance tests. A person with direct or indirect financial interest in a certified third-party testing lab must disclose to the WSLCB by affidavit any direct or indirect financial interest in a licensed marijuana producer or processor.

(3) As a condition of certification, each lab must employ a scientific director responsible to ensure the achievement and maintenance of quality standards of practice. The scientific director shall meet the following minimum qualifications:

(a) Has earned, from a college or university accredited by a national or regional certifying authority a doctorate in the chemical or biological sciences and a minimum of two years' post-degree laboratory experience; or

(b) Has earned a master's degree in the chemical or biological sciences and has a minimum of four years' of post-degree laboratory experience; or

(c) Has earned a bachelor's degree in the chemical or biological sciences and has a minimum of six years of post-education laboratory experience.

(4) As a condition of certification, labs must follow the most current version of the *Cannabis Inflorescence and Leaf* monograph published by the *American Herbal Pharmacopoeia* or notify the WSLCB what alternative scientifically valid testing methodology the lab is following for each quality assurance test. The WSLCB may require third-party validation of any monograph or analytical method followed by the lab to ensure the methodology produces scientifically accurate results prior to them using those standards when conducting required quality assurance tests.

(5) As a condition of certification, the WSLCB may require third-party validation and ongoing monitoring of a lab's basic proficiency to correctly execute the analytical methodologies employed by the lab. The WSLCB may contract with a vendor to conduct the validation and ongoing monitoring described in this subsection. The lab shall pay all vendor fees for validation and ongoing monitoring directly to the vendor.

(6) The lab must allow the WSLCB or their vendor to conduct physical visits and inspect related laboratory equipment, testing and other related records during normal business hours without advance notice.

(7) Labs must adopt and follow minimum good lab practices (GLPs), and maintain internal standard operating procedures (SOPs), and a quality control/quality assurance

(QC/QA) program as specified by the WSLCB. The WSLCB or authorized third-party organization can conduct audits of a lab's GLPs, SOPs, QC/QA, and inspect all other related records.

(8) ~~The WSLCB or its designee will take immediate disciplinary action against any certified third-party lab which fails to comply with the provisions of this chapter or falsifies records related to this section including, without limitation, revoking the certificate of the certified third-party lab.~~

(9) ~~The general body of required quality assurance tests for marijuana flowers and infused products may include moisture content, potency analysis, foreign matter inspection, microbiological screening, pesticide and other chemical residue and metals screening, and residual solvents levels.~~

(10) ~~Table of required quality assurance tests defined in the most current version of the *Cannabis Inflorescence and Leaf* monograph published by the American Herbal Pharmacopoeia.~~

~~((a))~~ required under this section.

(1) Quality assurance fields of testing. Certified labs must be certified to the following fields of testing by the WSLCB or its designee and must adhere to the guidelines for each quality assurance field of testing listed below, with the exception of mycotoxin, heavy metal, or pesticide residue screening. Certification to perform mycotoxin, heavy metals and pesticides may be obtained but is not required to obtain certification as a testing lab. A lab must become certified in all fields of testing prior to conducting any testing or screening in that field of testing, regardless of whether the test is required under this section.

(a) Potency analysis.

(i) Certified labs must test and report the following cannabinoids to the WSLCB when testing for potency:

(A) THCA;

(B) THC;

(C) Total THC;

(D) CBDA;

(E) CBD; and

(F) Total CBD.

(ii) Calculating total THC and total CBD.

(A) Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA:  

$$M \text{ total delta-9 THC} = M \text{ delta-9 THC} + (0.877 \times M \text{ delta-9 THCA}).$$

(B) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA:  

$$M \text{ total CBD} = M \text{ CBD} + (0.877 \times M \text{ CBDA}).$$

(iii) Regardless of analytical equipment or methodology, certified labs must accurately measure and report the acidic (THCA and CBDA) and neutral (THC and CBD) forms of the cannabinoids.

(b) Potency analysis for flower lots.

(i) Certified labs must test and report the results for the required flower lot samples as described in WAC 314-55-101(3) for the following required cannabinoids:

(A) THCA;

(B) THC;

(C) Total THC;

(D) CBDA;

(E) CBD; and



(F) Total CBD.

(ii) Calculating total THC and total CBD.

(A) Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA:  $M \text{ total delta-9 THC} = M \text{ delta-9 THC} + (0.877 \times M \text{ delta-9 THCA})$ .

(B) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA:  $M \text{ total CBD} = M \text{ CBD} + (0.877 \times M \text{ CBDA})$ .

(c) Certified labs may combine in equal parts multiple samples from the same flower lot for the purposes of the following tests after the individual samples described in WAC 314-55-101(3) have been tested for potency analysis.

(i) **Moisture analysis.** The sample and related lot or batch fails quality assurance testing for moisture analysis if the results exceed the following limits:

(A) Water activity rate of more than 0.65  $a_w$ ; and

(B) Moisture content more than fifteen percent.

(ii) **Foreign matter screening.** The sample and related lot or batch fail quality assurance testing for foreign matter screening if the results exceed the following limits:

(A) Five percent of stems 3mm or more in diameter; and

(B) Two percent of seeds or other foreign matter.

(iii) **Microbiological screening.** The sample and related lot or batch fail quality assurance testing for microbiological screening if the results exceed the following limits:

	<b>Enterobacteria (bile-tolerant gram-negative bacteria)</b>	<b><i>E. coli</i> (pathogenic strains) and <i>Salmonella spp.</i></b>
<b>Unprocessed Plant Material</b>	10 <sup>4</sup>	Not detected in 1g
<b>Extracted or processed Botanical Product</b>	10 <sup>3</sup>	Not detected in 1g

(iv) **Mycotoxin screening.** The sample and related lot or batch fail quality assurance testing for mycotoxin screening if the results exceed the following limits:

(A) Total of Aflatoxin B1, B2, G1, G2: 20 µg/kg of substance; and

(B) Ochratoxin A: 20 µg/kg of substance.

(d) **Residual solvent screening.** Except as otherwise provided in this subsection, a sample and related lot or batch fail quality assurance testing for residual solvents if the results exceed the limits provided in the table below. Residual solvent results of more than 5,000 ppm for class three solvents, 50 ppm for class two solvents, and 2 ppm for class one solvents as defined in *United States Pharmacopoeia, USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>)* not listed in the table below fail quality assurance testing. When residual solvent screening is required, certified labs must test for the solvents listed in the table below at a minimum.

<b>Solvent*</b>	<b>ppm</b>
Acetone	5,000
Benzene	2
Butanes	5,000
Cyclohexane	3,880

<b>Solvent*</b>	<b>ppm</b>
Chloroform	2
Dichloromethane	600
Ethyl acetate	5,000
Heptanes	5,000
Hexanes	290
Isopropanol (2-propanol)	5,000
Methanol	3,000
Pentanes	5,000
Propane	5,000
Toluene	890
Xylene**	2,170

\*And isomers thereof.

\*\*Usually 60% *m*-xylene, 14% *p*-xylene, 9% *o*-xylene with 17% ethyl benzene.

(e) **Heavy metal screening.** A sample and related lot or batch fail quality assurance testing for heavy metals if the results exceed the limits provided in the table below.

<b>Metal</b>	<b>µ/daily dose (5 grams)</b>
Inorganic arsenic	10.0
Cadmium	4.1
Lead	6.0
Mercury	2.0

(2) **Quality assurance testing required.** The following quality assurance tests are the minimum required tests for each of the following marijuana products, respectively. Licensees and certified labs may elect to do multiple quality assurance tests on the same lot or testing for mycotoxin, pesticides, or heavy metals pursuant to chapter 246-70 WAC.

(a) **General quality assurance testing requirements for certified labs.**

(i) Certified labs must record an acknowledgment of the receipt of samples from producers or processors in the WSLCB seed to sale traceability system. Certified labs must also verify if any unused portion of the sample was destroyed or returned to the licensee after the completion of required testing.

(ii) Certified labs must report quality assurance test results directly to the WSLCB traceability system when quality assurance tests for the field of testing are required within twenty-four hours of completion of the test(s).

(iii) Certified labs must fail a sample if the results for any limit test are above allowable levels regardless of whether the limit test is required in the testing tables in this section.

(b) **Marijuana flower lots and other material lots.** Marijuana flower lots or other material lots require the following quality assurance tests:

Product	Test(s) Required	((Maximum Sample Size))
	<del>((Flower Lots and Other Material Lots))</del>	
Lots of marijuana flowers <u>or other material</u> that will not be extracted	1. Moisture content 2. Potency analysis 3. Foreign matter inspection 4. Microbiological screening 5. <u>Mycotoxin screening</u>	((7 grams))

~~((b))~~ (c) **Intermediate products.** Intermediate products must meet the following requirements related to quality assurance testing:

- (i) All intermediate products must be homogenized prior to quality assurance testing;
- (ii) ~~((A batch))~~ For the purposes of this section, a batch is defined as a single run through the extraction or infusion process;
- (iii) A batch of marijuana mix may not exceed five pounds and must be chopped or ground so no particles are greater than 3 mm; and
- (iv) All batches of intermediate products require the following quality assurance tests:

Product	Test(s) Required Intermediate Products	((Maximum Sample Size))
Marijuana mix	1. Moisture content* 2. Potency analysis 3. Foreign matter inspection* 4. Microbiological screening 5. <u>Mycotoxin screening</u>	((7 grams))
Concentrate or extract made with hydrocarbons (solvent based made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity)	1. Potency analysis 2. <del>((Microbiological screening (only if using flowers and other plant material that has not passed QA testing)))</del> <u>Mycotoxin screening*</u> 3. Residual solvent test	((2 grams))
Concentrate or extract made with a CO <sub>2</sub> extractor like hash oil	1. Potency analysis 2. <del>((Microbiological screening (only if using flowers and other plant material that has not passed QA testing)))</del> <u>Mycotoxin screening*</u> 3. Residual solvent test	((2 grams))
Concentrate or extract made with ethanol	1. Potency analysis 2. <del>((Microbiological screening (only if using flowers and other plant material that has not passed QA testing)))</del> <u>Mycotoxin screening*</u> 3. Residual solvent test	((2 grams))
Concentrate or extract made with approved food grade solvent	1. Potency analysis 2. Microbiological screening <del>((only if using flowers and other plant material that has not passed QA testing))</del> * 3. <u>Mycotoxin screening*</u> 4. Residual solvent test	((2 grams))
Concentrate or extract (nonsolvent) such as kief, <del>((hashish))</del> <u>hash, rosin</u> , or bubble hash	1. Potency analysis 2. Microbiological <u>screening</u> 3. <u>Mycotoxin screening</u>	((2 grams))
Infused cooking oil or fat in solid form	1. Potency analysis 2. Microbiological screening <del>((only if using flowers and other plant material that has not passed QA testing))</del> * 3. <u>Mycotoxin screening*</u>	((2 grams))

\* Field of testing is only required if using lots of marijuana flower and other plant material that has not passed QA testing.

~~((e))~~ **(d) End products.** All marijuana, marijuana-infused products, marijuana concentrates, marijuana mix packaged, and marijuana mix infused sold from a processor to a retailer require the following quality assurance tests:

<b>Product</b>	<b>Test(s) Required End Products</b>	<b>(Maximum Sample Size)</b>
Infused solid edible	<del>((+))</del> Potency analysis	<del>((1 unit))</del>
Infused liquid (like a soda or tonic)	<del>((+))</del> Potency analysis	<del>((1 unit))</del>
Infused topical	<del>((+))</del> Potency analysis	<del>((1 unit))</del>
Marijuana mix packaged (loose or rolled)	<del>((+))</del> Potency analysis	<del>((2 grams))</del>
Marijuana mix infused (loose or rolled)	<del>((+))</del> Potency analysis	<del>((2 grams))</del>
Concentrate or marijuana-infused product for inhalation	<del>((+))</del> Potency analysis	<del>((1 unit))</del>

~~((d))~~ **(e)** End products consisting of only one intermediate product that has not been changed in any way ~~((is))~~ are not subject to potency analysis.

~~((11))~~ ~~Certified third-party labs may request additional sample material in excess of amounts listed in the table in subsection (10) of this section for the purposes of completing required quality assurance tests. Labs certified as meeting the WSLCB's accreditation requirements may retrieve samples from a marijuana licensee's licensed premises and transport the samples directly to the lab and return any unused portion of the samples.~~

~~((12))~~ Labs certified as meeting the WSLCB's accreditation requirements are not limited in the amount of usable marijuana and marijuana products they may have on their premises at any given time, but they must have records to prove all marijuana and marijuana-infused products only for the testing purposes described in WAC 314-55-102.

~~((13))~~ At the discretion of the WSLCB, a producer or processor must provide an employee of the WSLCB or their designee samples in the amount listed in subsection (10) of this section or samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. Samples may be screened for pesticides and chemical residues, unsafe levels of metals, and used for other quality assurance tests deemed necessary by the WSLCB. All costs of this testing will be borne by the producer or processor.

~~((14))~~ **(3)** No lot of usable flower, batch of marijuana concentrate, or batch of marijuana-infused product may be sold or transported until the completion ~~((of all required))~~ and successful passage of quality assurance testing~~((-))~~ as required in this section, except:

**(a)** Business entities with multiple locations licensed under the same UBI number may transfer marijuana products between the licensed locations under ~~((their))~~ the same UBI number prior to quality assurance testing~~((-~~

~~((15))~~ Any usable marijuana or marijuana-infused product that passed the required quality assurance tests may be labeled as "Class A." Only "Class A" usable marijuana or marijuana-infused product will be allowed to be sold.

~~((16))~~; and

**(b)** Licensees may wholesale and transfer batches or lots of flower and other material that will be extracted and marijuana mix and nonsolvent extracts for the purposes of further extraction prior to completing required quality assurance testing. Licensees may wholesale and transfer failed lots or

batches to be extracted pursuant to subsection (5) of this section.

**(4) Samples, lots, or batches that fail quality assurance testing.**

**(a)** Upon approval ~~((of))~~ by the WSLCB, ~~((a lot that fails a quality assurance test and the associated trim, leaf and other usable material))~~ failed lots or batches may be used to create extracts ~~((using hydrocarbon or CO<sub>2</sub> closed loop system))~~. After processing, the ~~((CO<sub>2</sub> or hydrocarbon based))~~ extract must ~~((still))~~ pass all ~~((required))~~ quality assurance tests ~~((in WAC 314-55-102))~~ required in this section before it may be sold.

~~((17))~~ **(b) Retesting.** At the request of the producer or processor, the WSLCB may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor~~((-~~

~~((18))~~ Labs must report all required quality assurance test results directly into the WSLCB's seed to sale traceability system within twenty-four hours of completion. Labs must also record in the seed to sale traceability system an acknowledgment of the receipt of samples from producers or processors and verify if any unused portion of the sample was destroyed or returned to the licensee~~((-))~~ requesting the retest. Potency retesting will generally not be authorized.

**(c) Remediation.** Producers and processors may remediate failed harvests, lots, or batches so long as the remediation method does not impart any toxic or deleterious substance to the usable marijuana, marijuana concentrates, or marijuana-infused product. Remediation solvents or methods used on the marijuana product must be disclosed to a licensed processor the producer or producer/processor transfers the products to; a licensed retailer carrying marijuana products derived from the remediated harvest, lot, or batch; or consumer upon request. The entire harvest, lot, or batch the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated harvest, lots or batches may be sold or transported until the completion and successful passage of quality assurance testing as required in this section.

**(5) Referencing.** Certified labs may reference samples for mycotoxin, heavy metals, and pesticides testing to other certified labs by subcontracting for those fields of testing. Labs must record all referencing to other labs on a chain-of-custody manifest that includes, but is not limited to, the following information: Lab name, certification number, transfer

date, address, contact information, delivery personnel, sample ID numbers, field of testing, receiving personnel.

(6) Certified labs are not limited in the amount of usable marijuana and marijuana products they may have on their premises at any given time, but a certified lab must have records proving all marijuana and marijuana-infused products in the certified lab's possession are held only for the testing purposes described in this section.

(7) Upon the request of the WSLCB or its designee, a licensee or a certified lab must provide an employee of the WSLCB or their designee samples of marijuana or marijuana products or samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random compliance checks. Samples may be screened for

pesticides and chemical residues, unsafe levels of heavy metals, and used for other quality assurance tests deemed necessary by the WSLCB.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

**WAC 314-55-103 Good laboratory practice checklist.** A third-party testing lab must be certified by the WSLCB or its vendor as meeting the WSLCB's accreditation and other requirements prior to conducting required quality assurance tests. The following checklist will be used by the WSLCB or its vendor to certify third-party testing labs:

<b>ORGANIZATION</b> Completed by: Reviewed by:	<b>Document Reference</b>	<b>Y</b>	<b>N</b>	<b>NA</b>	<b>Comments</b>
1. The laboratory or the organization of which it is a part of shall be an entity that can be held legally responsible.	-	-	-	-	-
2. The laboratory conducting third-party testing shall have no financial interest in a licensed producer or processor for which testing is being conducted.	-	-	-	-	-
If the laboratory is part of an organization performing activities other than testing ( <del>(and/or calibration)</del> ), the responsibilities of key personnel in the organization that have an involvement or influence on the testing ( <del>(and/or calibration)</del> ) activities of the laboratory shall be defined in order to identify potential conflicts of interest.	-	-	-	-	-
3. The laboratory shall have policies and procedures to ensure the protection of its client's confidential information and proprietary rights, including procedures for protecting the electronic storage and transmission of results.	-	-	-	-	-
4. <u>In every instance where the lab references certification status they shall clearly indicate which tests they are currently certified for.</u>	=	=	=	=	=
5. The laboratory is responsible for all costs of initial certification and ongoing site assessments.	-	-	-	-	-
<del>((5-))</del> The laboratory must agree to site assessments every <del>((two))</del> 6. <u>year for the first three years to maintain certification. Beginning year four of certification, on-site assessments will occur every two years to maintain certification.</u>	-	-	-	-	-
<del>((6-))</del> 7. The laboratory must allow WSLCB staff or their representative to conduct physical visits and check I-502 related laboratory activities at any time.	-	-	-	-	-
<del>((7-))</del> 8. The laboratory must report all test results directly into WSLCB's traceability system within twenty-four hours of completion. Labs must also record in the traceability system an acknowledgment of the receipt of samples from producers or processors and verify if any unused portion of the sample was destroyed or returned to the customer.	-	-	-	-	-

<p><b>HUMAN RESOURCES</b>                      Completed by:                      Reviewed by:</p>	<p><b>Document Reference</b></p>	<p><b>Y</b></p>	<p><b>N</b></p>	<p><b>NA</b></p>	<p><b>Comments</b></p>
<p><del>((8-))</del> Job descriptions for owners and all employees(<del>(- Key staff)</del>). <u>A written and documented system detailing the qualifications of each member of the staff including any specific training requirements applicable to analytical methods.</u></p>	-	-	-	-	-
<p><u>b. Specialized training such as by vendors, classes granting CEUs, etc., shall be documented in each training file.</u></p>	=	=	=	=	=
<p><del>((9-))</del> Qualifications of owners and staff: CVs for staff on file. <u>10.</u></p>	-	-	-	-	-
<p>a. Have technical management which has overall responsibility for the technical operations and the provision of the resources needed to ensure the required quality of laboratory operations.</p>	-	-	-	-	-
<p>b. Documentation that the scientific director meets the requirements of WSLCB rules.</p>	-	-	-	-	-
<p>c. Chain of command, personnel organization/flow chart, dated and signed by the laboratory director.</p>	-	-	-	-	-
<p>d. <u>Written documentation of delegation of responsibilities in the absence of the scientific director and management staff</u> (assigned under chapter 314-55 WAC as related to quality assurance testing) (<del>to qualified personnel, signed and dated by the laboratory director</del>).</p>	-	-	-	-	-
<p>e. Documentation of employee competency (DOC): Prior to independently analyzing samples, <u>and on an annual, ongoing basis,</u> testing personnel must demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples (proficiency samples or internally generated quality controls). Dated and signed by the laboratory director.</p>	-	-	-	-	-
<p>f. <u>The laboratory management shall ensure the competence of all who operate specific equipment, perform tests and/or calibrations, evaluate results, and sign test reports and calibration certificates.</u></p>	=	=	=	=	=
<p>g. <u>When using staff who are undergoing training, appropriate supervision shall be provided.</u></p>	=	=	=	=	=
<p>h. <u>Personnel performing specific tasks shall be qualified on the basis of appropriate education, training, experience and/or demonstrated skills, as necessary.</u></p>	=	=	=	=	=
<p>i. <u>The management shall authorize specific personnel to perform particular types of sampling, test and/or calibration, to issue test reports and calibration certificates, to give opinions and interpretations and to operate particular types of equipment.</u></p>	=	=	=	=	=
<p>j. <u>The laboratory shall maintain records of the relevant authorization(s), competence, educational and professional qualifications, training, skills and experience of all technical personnel, including contracted personnel.</u></p>	=	=	=	=	=
<p>k. <u>Successful training (in-house courses are acceptable) in specific methodologies used in the laboratory shall be documented.</u></p>	=	=	=	=	=

<b>HUMAN RESOURCES</b> Completed by: Reviewed by:	<b>Document Reference</b>	<b>Y</b>	<b>N</b>	<b>NA</b>	<b>Comments</b>
l. Designate a quality manager (however named) who, irrespective of other duties and responsibilities, shall have defined responsibility and authority for ensuring that the quality system is implemented and followed; the quality manager shall have direct access to the highest level of management at which decisions are made on laboratory policy or resources.	-	-	-	-	-
<del>((10. Written and documented system detailing the qualifications of each member of the staff.</del>	-	-	-	-	-
<del>The need to require formal qualification or certification of personnel performing certain specialized activities shall be evaluated and implemented where necessary.</del>	-	-	-	-	-
<del>11. Standard operating procedure manual that details records of internal training provided by facility for staff. Laboratory director must approve, sign and date each procedure.</del>	-	-	-	-	-))
m. <u>The laboratory shall delegate responsibilities for key managerial personnel to be acted upon in cases of absence or unavailability.</u>	=	=	=	=	=
n. <u>The laboratory shall provide adequate supervision of testing staff, including trainees, by persons familiar with methods and procedures, purpose of each test and/or calibration, and with the assessment of the test or calibration results.</u>	=	=	=	=	=
11. <u>Standard operating procedure for the following:</u>	=	=	=	=	=
a. Instructions on regulatory inspection and preparedness.	-	-	-	-	-
b. Instruction on law enforcement interactions.	-	-	-	-	-
c. Information on U.S. federal laws, regulations, and policies relating to individuals employed in these operations, and the implications of these for such employees.	-	-	-	-	-
d. Written and documented system of employee training on hazards (physical and health) of chemicals in the workplace, including prominent location of MSDS or SDS sheets and the use of appropriate PPE.	-	-	-	-	-
e. Written and documented system on the competency of personnel on how to handle chemical spills and appropriate action; spill kit on-site and well-labeled, all personnel know the location and procedure.	-	-	-	-	-
f. Information on how employees can access medical attention for chemical or other exposures, including follow-up examinations without cost or loss of pay.	-	-	-	-	-
g. <u>Biosafety at a minimum covering sterilization and disinfection procedures</u> and sterile technique training.	-	-	-	-	-
<p style="text-align: center;"><b>STANDARD OPERATING PROCEDURES</b></p>	<b>Document Reference</b>	<b>Y</b>	<b>N</b>	<b>NA</b>	<b>Comments</b>
12. As appropriate, laboratory operations covered by procedures shall include, but not be limited to, the following:	-	-	-	-	-
a. Environmental, safety and health activities;	-	-	-	-	-
b. Sample shipping and receipt;	-	-	-	-	-
c. Laboratory sample chain of custody and material control;	-	-	-	-	-
d. Notebooks/logbooks;	-	-	-	-	-

STANDARD OPERATING PROCEDURES	Document Reference	Y	N	NA	Comments
e. Sample storage;	-	-	-	-	-
f. Sample preparation;	-	-	-	-	-
g. Sample analysis;	-	-	-	-	-
h. Standard preparation and handling;	-	-	-	-	-
i. Postanalysis sample handling;	-	-	-	-	-
j. Control of standards, reagents and water quality;	-	-	-	-	-
k. Cleaning of glassware;	-	-	-	-	-
l. Waste minimization and disposition.	-	-	-	-	-
13. The following information is required for procedures as appropriate to the scope and complexity of the procedures or work requested:	-	-	-	-	-
a. Scope (e.g., parameters measured, range, matrix, expected precision, and accuracy);	-	-	-	-	-
b. Unique terminology used;	-	-	-	-	-
c. Summary of method;	-	-	-	-	-
d. Interferences/limitations;	-	-	-	-	-
e. Approaches to address background corrections;	-	-	-	-	-
f. Apparatus and instrumentation;	-	-	-	-	-
g. Reagents and materials;	-	-	-	-	-
h. Hazards and precautions;	-	-	-	-	-
i. Sample preparation;	-	-	-	-	-
j. Apparatus and instrumentation setup;	-	-	-	-	-
k. Data acquisition system operation;	-	-	-	-	-
l. Calibration and standardization;	-	-	-	-	-
m. Procedural steps;	-	-	-	-	-
n. QC parameters and criteria;	-	-	-	-	-
o. Statistical methods used;	-	-	-	-	-
p. Calculations;	-	-	-	-	-
q. Assignment of uncertainty;	-	-	-	-	-
r. Forms used in the context of the procedure.	-	-	-	-	-
s. <u>Document control with master list identifying the current revision status of documents.</u>	=	=	=	=	=
FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
14. Allocation of space: Adequate for number of personnel and appropriate separation of work areas.	-	-	-	-	-
15. Arrangement of space.	-	-	-	-	-
a. Allows for appropriate work flow, sampling, lab space separate from office and break areas.	-	-	-	-	-
b. Employee bathroom is separate from any laboratory area.	-	-	-	-	-
16. Adequate eyewash/safety showers/sink.	-	-	-	-	-
17. Procurement controls.	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
a. The laboratory shall have procedure(s) for the selection and purchasing of services and supplies it uses that affect the quality of the tests and/or calibrations. Procedures <u>covering reagents and laboratory consumables</u> shall exist for the purchase, receipt <del>((and))</del> , storage <del>((of reagents and laboratory consumable materials relevant for the tests and calibrations))</del> , and <u>disposition of expired materials</u> .	-	-	-	-	-
b. The laboratory shall ensure that purchased supplies and reagents and consumable materials that affect the quality of tests and/or calibrations are inspected or otherwise verified as complying with standard specifications or requirements defined in the methods for the tests and/or calibrations concerned.	-	-	-	-	-
i. <u>Reagents and standards shall be inspected, dated and initialed upon receipt, and upon opening.</u>	=	=	=	=	=
ii. <u>Calibration standards and analytical reagents shall have an expiration or reevaluation date assigned.</u>	=	=	=	=	=
iii. <u>Solutions shall be adequately identified to trace back to preparation documentation.</u>	=	=	=	=	=
c. Prospective suppliers shall be evaluated and selected on the basis of specified criteria.	-	-	-	-	-
d. Processes to ensure that approved suppliers continue to provide acceptable items and services shall be established and implemented.	-	-	-	-	-
<del>((e. When there are indications that subcontractors knowingly supplied items or services of substandard quality, this information shall be forwarded to appropriate management for action.</del>	-	-	-	-	-))
18. <u>Subcontracting.</u>	=	=	=	=	=
a. <u>The laboratory shall advise the customer of the subcontract arrangement in writing, including the subcontractors' accreditation credentials under chapters 69.50 RCW and 314-55 WAC.</u>	=	=	=	=	=
b. <u>The laboratory shall maintain a register of all subcontractors that it uses for tests and/or calibrations and a record of the evidence of compliance with chapter 314-55 WAC for the work in question.</u>	=	=	=	=	=
c. <u>When there are indications that subcontractors knowingly supplied items or services of substandard quality, this information shall be forwarded to appropriate management for action.</u>	=	=	=	=	=
<del>((18.))</del> Utilities <u>(items verified upon on-site inspection).</u>	-	-	-	-	-
19.					
a. Electrical:	-	-	-	-	-
i. Outlets: Adequate, unobstructed, single-use, <del>((#))</del> multiplug adaptors <u>with surge control</u> ;	-	-	-	-	-
ii. <del>((#))</del> <u>Single-use extension cords</u> ;	-	-	-	-	-
iii. Ground fault circuit interrupters near wet areas.	-	-	-	-	-
b. Plumbing:	-	-	-	-	-
i. Appropriateness of sink usage: Separate <u>sinks</u> for work/personal use;	-	-	-	-	-



FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
ii. Adequate drainage from sinks or floor drains;	-	-	-	-	-
iii. Hot and cold running water.	-	-	-	-	-
c. Ventilation:	-	-	-	-	-
i. Areas around solvent use or storage of <u>solvents or waste solvents</u> ;	-	-	-	-	-
ii. Vented hood for any microbiological analysis - Class II Type A biosafety cabinet <u>as applicable</u> .	-	-	-	-	-
<u>iii. Fume hood with appropriate ventilation.</u>	=	=	=	=	=
d. Vacuum: Appropriate utilities/traps for prevention of contamination ( <u>as applicable</u> ).	-	-	-	-	-
e. Shut-off controls: Located outside of the laboratory.	-	-	-	-	-
<del>((19-))</del> <u>20.</u> Waste disposal: Appropriate for the type of waste and compliant with WAC 314-55-097 Marijuana waste disposal—Liquids and solids.	-	-	-	-	-
<del>((20-))</del> <u>21.</u> Equipment <del>((list))</del> . <u>Equipment and/or systems requiring periodic maintenance shall be identified and records of major equipment shall include:</u>	-	-	-	-	-
<del>((Equipment and/or systems requiring periodic maintenance shall be identified and records of major equipment shall include:</del>	-	-	-	-	-))
a. Name;	-	-	-	-	-
b. Serial number or unique identification <u>from name plate</u> ;	-	-	-	-	-
c. Date received and placed in service;	-	-	-	-	-
d. Current location;	-	-	-	-	-
e. Condition at receipt;	-	-	-	-	-
f. Manufacturer's instructions;	-	-	-	-	-
g. Date of calibration or date of next calibration;	-	-	-	-	-
h. Maintenance;	-	-	-	-	-
i. History of malfunction.	-	-	-	-	-
<del>((21-))</del> <u>22.</u> Maintenance.	-	-	-	-	-
a. <del>((Regular))</del> <u>Documented evidence of routine preventive maintenance and calibration of equipment ((demonstration in log-book))</u> including, but not limited to: Thermometer <del>((calibration))</del> , pipette <del>((calibrations))</del> , analytical balances, and <u>additional analytical equipment. ((Documentation of a schedule and reviewed by the laboratory director.))</u>	-	-	-	-	-
<del>((b-))</del> <u>Calibration programs shall be established for key quantities or</u> i. <u>values of the instruments where these properties have a significant effect on the results.</u>	=	=	=	=	=
ii. <u>Before being placed into service, equipment, including equipment used for sampling, shall be calibrated or checked to establish that it meets the laboratory's specification requirements and complies with the relevant standard specifications.</u>	=	=	=	=	=

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
<p><u>iii. Equipment that has been subjected to overloading or mishandling, gives suspect results, or has been shown to be defective or outside of specified limits, shall be taken out of service. Such equipment shall be isolated to prevent its use or clearly labeled or marked as being out-of-service until it has been repaired and shown by calibration or test to perform correctly.</u></p>	=	=	=	=	=
<p><u>b. Documentation of a maintenance schedule and reviewed by the laboratory director.</u></p>	=	=	=	=	=
<p><u>i. Calibration procedures shall specify frequency of calibration checks.</u></p>	=	=	=	=	=
<p><u>ii. Instruments that are routinely calibrated shall be verified daily or prior to analyzing samples (as applicable).</u></p>	=	=	=	=	=
<p><u>iii. Acceptance criteria shall be determined, documented and used.</u></p>	=	=	=	=	=
<p><u>iv. When possible, any external calibration service (metrological laboratory) used shall be a calibration laboratory accredited to ISO/IEC 17025:2005 by a recognized accreditation body.</u></p>	=	=	=	=	=
<p><u>v. Laboratories shall demonstrate, when possible, that calibrations of critical equipment and hence the measurement results generated by that equipment, relevant to their scope of accreditation, are traceable to the SI through an unbroken chain of calibrations.</u></p>	=	=	=	=	=
<p><u>vi. External calibration services shall, wherever possible, be obtained from providers accredited to one of the following: ISO/IEC 17025, ISO Guide 34, an ILAC recognized signatory, a CIPM recognized National Metrology Institute (NMI), or a state weights and measures facility that is part of the NIST laboratory metrology program. Calibration certificates shall be endorsed by a recognized accreditation body symbol or otherwise make reference to accredited status by a specific, recognized accreditation body, or contain endorsement by the NMI. Certificates shall indicate traceability to the SI or reference standard and include the measurement result with the associated uncertainty of measurement.</u></p>	=	=	=	=	=
<p><u>vii. Where traceability to the SI is not technically possible or reasonable, the laboratory shall use certified reference materials provided by a competent supplier.</u></p>	=	=	=	=	=
<p><u>viii. Calibrations performed in-house shall be documented in a manner that demonstrates traceability via an unbroken chain of calibrations regarding the reference standard/material used, allowing for an overall uncertainty to be estimated for the in-house calibration.</u></p>	=	=	=	=	=
<p><u>ix. Calibrations shall be repeated at appropriate intervals, the length of which can be dependent on the uncertainty required, the frequency of use and verification, the manner of use, stability of the equipment, and risk of failure considerations.</u></p>	=	=	=	=	=

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
x. <u>Periodic verifications shall be performed to demonstrate the continued validity of the calibration at specified intervals between calibrations. The frequency of verifications can be dependent on the uncertainty required, the frequency of use, the manner of use, stability of the equipment, and risk of failure considerations.</u>	=	=	=	=	=
c. Documentation of curative maintenance in logbook, signed and dated by laboratory director.	-	-	-	-	-
<del>(e. Temperature maintenance logbook for refrigerators.</del>	-	-	-	-	-))
d. <u>Evidence of temperature monitoring for equipment requiring specific temperature ranges.</u>	=	=	=	=	=
e. <u>Test and calibration equipment, including both hardware and software, shall be safeguarded from adjustments which would invalidate the test and/or calibration results.</u>	=	=	=	=	=
f. Decontamination and cleaning procedures for:	-	-	-	-	-
i. Instruments;	-	-	-	-	-
ii. Bench space; <u>and</u>	-	-	-	-	-
iii. Ventilation hood/ <u>microbial hood.</u>	-	-	-	-	-
<del>(e.)</del> Documentation of adequacy of training of personnel and <u>g.</u> responsibility for each maintenance task.	-	-	-	-	-
<del>(f.)</del> The organization shall describe or reference how periodic preventive and corrective maintenance of measurement or test equipment shall be performed to ensure availability and satisfactory performance of the systems.	-	-	-	-	-
<del>(22.)</del> Computer systems ( <u>items verified upon on-site inspection.</u> <u>23.</u>	-	-	-	-	-
a. Adequate for sample tracking.	-	-	-	-	-
b. Adequate for analytical equipment software.	-	-	-	-	-
c. Software control requirements applicable to both commercial and laboratory developed software shall be developed, documented, and implemented.	-	-	-	-	-
d. In addition, procedures for software control shall address the security systems for the protection of applicable software.	-	-	-	-	-
e. For laboratory-developed software, a copy of the original program code shall be:	-	-	-	-	-
i. Maintained;	-	-	-	-	-
ii. All changes shall include a description of the change, authorization for the change;	-	-	-	-	-
iii. Test data that validates the change.	-	-	-	-	-
f. Software shall be acceptance tested when installed, after changes, and periodically during use, as appropriate.	-	-	-	-	-
g. <u>Software testing</u> ( <del>(may consist of)</del> ) <u>shall include performing manual calculations or checking against another software product that has been previously tested, or by analysis of standards.</u>	-	-	-	-	-
h. The version and manufacturer of the software shall be documented.	-	-	-	-	-

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
i. Commercially available software may be accepted as supplied by the vendor. For vendor supplied instrument control/data analysis software, acceptance testing may be performed by the laboratory.	-	-	-	-	-
<del>((23-))</del> Security. <u>24.</u>	-	-	-	-	-
a. Written facility security procedures during operating and non-working hours.	-	-	-	-	-
b. Roles of personnel in security.	-	-	-	-	-
c. SOP for controlled access areas and personnel who can access.	-	-	-	-	-
<del>((d. Secured areas for log in of sample, and for short and long term storage of samples.</del>	-	-	-	-	-
24.) <u>Control of records.</u> <u>25.</u>	=	=	=	=	=
a. <u>The laboratory shall establish and maintain procedures for identification, collection, indexing, access, filing, storage, maintenance and disposal of quality and technical records.</u>	=	=	=	=	=
b. <u>All records shall be legible and shall be stored and retained in such a way that they are readily retrievable in facilities that provide a suitable environment to prevent damage or deterioration and to prevent loss.</u>	=	=	=	=	=
c. <u>Records must be retained for a period of three years.</u>	=	=	=	=	=
d. <u>All records shall be held secure and in confidence.</u>	=	=	=	=	=
e. <u>The laboratory shall have procedures to protect and back-up records stored electronically and to prevent unauthorized access to or amendment of these records.</u>	=	=	=	=	=
f. <u>The laboratory shall retain records of original observations, derived data and sufficient information to establish an audit trail, calibration records, staff records and a copy of each test report or calibration certificate issued, for a defined period.</u>	=	=	=	=	=
g. <u>The records for each test or calibration shall contain sufficient information to facilitate, if possible, identification of factors affecting the uncertainty and to enable the test or calibration to be repeated under conditions as close as possible to the original.</u>	=	=	=	=	=
h. <u>The records shall include the identity of personnel responsible for the sampling, performance of each test and/or calibration and checking of results.</u>	=	=	=	=	=
i. <u>Observations, data and calculations shall be recorded at the time they are made and shall be identifiable to the specific task.</u>	=	=	=	=	=
j. <u>When mistakes occur in records, each mistake shall be lined out, not erased or made illegible or deleted, and the correct value entered alongside.</u>	=	=	=	=	=
k. <u>All such alterations or corrections to records shall be signed or initialed and dated by the person making the correction.</u>	=	=	=	=	=
l. <u>In the case of records stored electronically, equivalent measures shall be taken to avoid loss or change of original data.</u>	=	=	=	=	=

FACILITIES AND EQUIPMENT	Document Reference	Y	N	NA	Comments
m. <u>All entries to hard copy laboratory records shall be made using indelible ink. No correction fluid may be used on original laboratory data records.</u>	-	-	-	-	-
n. <u>Laboratories shall establish and maintain a data review process beginning at sample receipt and extending through the report process. The data review process shall be an independent review, conducted by a qualified individual other than the analyst.</u>	-	-	-	-	-
o. <u>The review process shall be documented before data are reported.</u>	-	-	-	-	-
26. Storage.	-	-	-	-	-
a. Appropriate and adequate for sample storage over time. The laboratory shall monitor, control and record environmental conditions as required by the relevant specifications, methods and procedures or where they influence the quality of the results. Due attention shall be paid, for example, to biological sterility, dust, electromagnetic disturbances, humidity, electrical supply, temperature, and sound and vibration levels, as appropriate to the technical activities concerned.	-	-	-	-	-
b. Adequate storage of chemical reference standards.	-	-	-	-	-
c. Appropriate storage of any reagents: Fireproof cabinet, separate cabinet for storage of any acids.	-	-	-	-	-
d. Appropriate safe and secure storage of documents etc., archiving, retrieval of, maintenance of and security of data for a period of three years.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
<del>((25-))</del> <u>27. Sampling/sample protocols(±) must be consistent with chapter 314-55 WAC, written and approved by the laboratory director, and must include documented training.</u>	-	-	-	-	-
a. <u>Demonstrate adequacy of the chain-of-custody, including: Tracking upon receipt of sample including all personnel handling the sample and documenting condition of the sample through a macroscopic and foreign matter inspection.</u>	-	-	-	-	-
b. <del>((Sampling method (representative of an entire batch) including, but not limited to, homogenization, weighing, labeling, sample identifier (source, lot), date and tracking.</del>	-	-	-	-	-
e. <del>Condition of the sample:</del> ) Macroscopic and foreign matter inspection - Fit for purpose test. Scientifically valid testing methodology: Either AHP monograph compliant(±) <u>or</u> other third-party validation.	-	-	-	-	-
<del>((d-))</del> <u>c.</u> Failed inspection of product: Tracking and reporting.	-	-	-	-	-
<del>((e-))</del> <u>d.</u> Return of failed product documentation and tracking.	-	-	-	-	-
<del>((f-))</del> <u>e.</u> Disposal of used/unused samples documentation.	-	-	-	-	-

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
<del>((g-))</del> Sample preparation, extraction and dilution SOP. <u>f.</u>	-	-	-	-	-
<del>((h-))</del> Demonstration of recovery for samples in various matrices <u>g.</u> (SOPs):	-	-	-	-	-
i. Plant material - Flower;	-	-	-	-	-
ii. Edibles (solid and liquid meant to be consumed orally);	-	-	-	-	-
iii. Topical;	-	-	-	-	-
iv. Concentrates.	-	-	-	-	-
<del>((26-))</del> Data protocols. <u>28.</u>	-	-	-	-	-
a. Calculations for quantification of cannabinoid content in various matrices - SOPs.	-	-	-	-	-
b. Determination of the range for reporting the quantity (LOD/LOQ) data review or generation.	-	-	-	-	-
c. Reporting of data: Certificates of analysis (CA) - Clear and standardized format for consumer reporting.	-	-	-	-	-
d. <u>Each test report shall include at least the following information, unless the laboratory has valid reasons for not doing so:</u>	=	=	=	=	=
i. <u>A title (e.g., "Test Report" or "Certificate of Analysis");</u>	=	=	=	=	=
ii. <u>The name and address of the laboratory, and the location where the tests were carried out, if different from the address of the laboratory;</u>	=	=	=	=	=
iii. <u>Unique identification of the test report certificate (such as the serial number), and on each page an identification in order to ensure that the page is recognized as a part of the test report or calibration certificate, and a clear identification of the end of the test report or calibration certificate;</u>	=	=	=	=	=
iv. <u>The name and address of the customer;</u>	=	=	=	=	=
v. <u>Identification of the method used;</u>	=	=	=	=	=
vi. <u>A description of, the condition of, and unambiguous identification of the item(s) tested;</u>	=	=	=	=	=
vii. <u>The date of receipt of the test item(s) where this is critical to the validity and application of the results, and the date(s) of performance of the test or calibration;</u>	=	=	=	=	=
viii. <u>Reference to the sampling plan and procedures used by the laboratory or other bodies where these are relevant to the validity or application of the results;</u>	=	=	=	=	=
ix. <u>The test results with, where appropriate, the units of measurement;</u>	=	=	=	=	=
x. <u>The name(s), function(s) and signature(s) or equivalent identification of person(s) authorizing the test report or certificate; and</u>	=	=	=	=	=
xi. <u>Where relevant, a statement to the effect that the results relate only to the items tested or calibrated.</u>	=	=	=	=	=

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
e. <u>Material amendments to a test report or calibration certificate after issue shall be made only in the form of a further document, or data transfer, which includes the statement: "Supplement to Test Report (or Calibration Certificate), serial number... (or as otherwise identified)," or an equivalent form of wording.</u>	=	=	=	=	=
f. <u>When it is necessary to issue a complete new test report or calibration certificate, this shall be uniquely identified and shall contain a reference to the original that it replaces.</u>	=	=	=	=	=
g. <u>If the laboratory chooses to include a reference to their I-502 certification on their test report, any test results not covered under I-502 certification shall be clearly identified on the report.</u>	=	=	=	=	=
h. Documentation that the value reported in the CA is within the range and limitations of the analytical method.	-	-	-	-	-
((e-)) Documentation that qualitative results (those below the LOQ i. but above the LOD) are reported as "trace," or with a nonspecific (numerical) designation.	-	-	-	-	-
((f-)) Documentation that the methodology has the specificity for the j. degree of quantitation reported. Final reports are not quantitative to any tenths or hundredths of a percent.	-	-	-	-	-
((g-)) Use of appropriate "controls": Documentation of daily use of k. positive and negative controls that challenge the linearity of the curve; and/or an appropriate "matrix blank" and control with documentation of the performance for each calibration run.	-	-	-	-	-
((27-)) Chemical assay procedure/methodology. 29.	-	-	-	-	-
((28- Proficiency:	-	-	-	-	-))
30. <u>Quality Control (QC):</u>	=	=	=	=	=
a. Documentation of use of an appropriate internal standard for any quantitative measurements as applicable to the method.	-	-	-	-	-
b. Appropriate reference standards for quantification of analytes, performing and documenting a calibration curve with each analysis.	-	-	-	-	-
i. <u>Reference materials shall, where possible, be traceable to SI units of measurement, or to certified reference materials. Internal reference materials shall be checked for accuracy as far as is technically and economically practicable.</u>	=	=	=	=	=
ii. <u>The laboratory shall create and follow procedures for safe handling, transport, storage and use of reference standards and reference materials in order to prevent contamination or deterioration and in order to protect their integrity.</u>	=	=	=	=	=
iii. <u>Reference materials shall have a certificate of analysis that documents traceability to a primary standard or certified reference material and associated uncertainty, when possible. When applicable, the certificate must document the specific NIST SRM® or NMI certified reference material used for traceability.</u>	=	=	=	=	=

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
c. <u>Demonstration of calibration curve r<sup>2</sup> value of no less than 0.995 with a minimum of four points (<del>within</del>) which bracket the expected sample concentration range.</u>	-	-	-	-	-
<del>((d. Documentation of any proficiency testing as it becomes available. Laboratory director must review, evaluate and report to the WSLCB any result that is outside the stated acceptable margin of error.</del>	-	-	-	-	-))
i. <u>The calibration curve shall be verified by preparing an independently prepared calibration standard (from neat materials) or with a standard from an independent source. Acceptance criteria for the standard calibration curve and the independent calibration verification standard shall be documented.</u>	=	=	=	=	=
ii. <u>Instrument calibration/standardization shall be verified each 24-hour period of use, or at each instrument start-up if the instrument is restarted during the 24-hour period, by analysis of a continuing calibration verification standard. Acceptance criteria shall be documented.</u>	=	=	=	=	=
iii. <u>Calibration or working quantification ranges shall encompass the concentrations reported by the laboratory. Continuing calibration verification standards and continuing calibration blanks shall be analyzed in accordance with the specified test methods. Acceptance criteria shall be documented.</u>	=	=	=	=	=
d. <u>Assuring the quality of test results.</u>	=	=	=	=	=
i. <u>The laboratory shall have quality control procedures for monitoring the validity of tests and calibrations undertaken.</u>	=	=	=	=	=
ii. <u>The resulting data shall be recorded in such a way that trends are detectable and, where practicable, statistical techniques shall be applied to the reviewing of the results.</u>	=	=	=	=	=
iii. <u>This monitoring shall be planned and reviewed and may include, but not be limited to, the following:</u>	=	=	=	=	=
A. <u>Regular use of certified reference materials and/or internal quality control using secondary reference materials;</u>	=	=	=	=	=
B. <u>Participation in interlaboratory comparison or proficiency-testing programs;</u>	=	=	=	=	=
C. <u>Replicate tests or calibrations using the same or different methods;</u>	=	=	=	=	=
D. <u>Retesting or recalibration of retained items;</u>	=	=	=	=	=
E. <u>Correlation of results for different characteristics of an item.</u>	=	=	=	=	=
iv. <u>Quality control data shall be analyzed and, where they are found to be outside predefined criteria, planned actions shall be taken to correct the problem and to prevent incorrect results from occurring.</u>	=	=	=	=	=
v. <u>The laboratory shall determine, where feasible, the accuracy and precision of all analyses performed.</u>	=	=	=	=	=
vi. <u>Acceptance limits for each method shall be established based on statistical evaluation of the data generated by the analysis of quality control check samples, unless specific acceptance limits are established by the method.</u>	=	=	=	=	=



QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
vii. <u>Control charts or quality control data bases shall be used to record quality control data and compare them with acceptance limits.</u>	=	=	=	=	=
viii. <u>Procedures shall be used to monitor trends and the validity of test results.</u>	=	=	=	=	=
31. <u>Proficiency.</u>	=	=	=	=	=
a. <u>Participation in approved PT programs for each field of testing.</u>	=	=	=	=	=
b. <u>Passing PT results for two consecutive PTs.</u>	=	=	=	=	=
c. <u>Documentation of investigation for all failed PTs.</u>	=	=	=	=	=
((29.)) Method validation: Scientifically valid testing methodology: 32. <del>((Either))</del> <u>AHP monograph compliant, other third-party validation(;) or the current version of a standard method. The following requirements are applied to other third-party validation:</u>	-	-	-	-	-
((30. <del>Level II validation of methodology used for quantification of THC, THCA and CBD for total cannabinoid content (if reporting other cannabinoids, the method must also be validated for those compounds):</del>	-	-	-	-	-
a. <del>Single lab validation parameters are demonstrated for GC, HPLC data review:</del>	-	-	-	-	-
i. <del>Linearity of reference standards;</del>	-	-	-	-	-
ii. <del>Use of daily standard curve;</del>	-	-	-	-	-
iii. <del>Accuracy;</del>	-	-	-	-	-
iv. <del>Precision;</del>	-	-	-	-	-
v. <del>Recovery (5 determinations not less than 90%);</del>	-	-	-	-	-
vi. <del>Reproducibility over time within a relative standard deviation of 5%.</del>	-	-	-	-	-
b. <del>Dynamic range of the instrumentation: Limits of quantification (LOQ) and limits of detection (LOD).</del>	-	-	-	-	-
e-)) <u>The laboratory shall validate nonstandard methods, laboratory-designed/developed methods, standard methods used outside their intended scope, and amplifications and modifications of standard methods to confirm that the methods are fit for the intended use.</u>	=	=	=	=	=
b. <u>The validation shall be as extensive as is necessary to meet the needs of a given application or field of application.</u>	=	=	=	=	=
c. <u>The laboratory shall record the results obtained, the procedure used for the validation, and a statement as to whether the method is fit for the intended use.</u>	=	=	=	=	=
d. <u>The customer shall be informed as to the method chosen.</u>	=	=	=	=	=
e. <u>The laboratory shall confirm that it can properly operate standard methods before introducing the tests or calibrations. If the standard method changes, the confirmation shall be repeated.</u>	=	=	=	=	=
f. <u>Deviation from test and calibration methods shall occur only if the deviation has been documented, technically justified, authorized, and accepted by the customer.</u>	=	=	=	=	=
g. <u>Validation shall be documented and include the following elements as applicable:</u>	=	=	=	=	=

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
i. <u>Minimum acceptance criteria;</u>	=	=	=	=	=
ii. <u>Analyte specificity;</u>	=	=	=	=	=
iii. <u>Linearity;</u>	=	=	=	=	=
iv. <u>Range;</u>	=	=	=	=	=
v. <u>Accuracy;</u>	=	=	=	=	=
vi. <u>Precision;</u>	=	=	=	=	=
vii. <u>Detection limit;</u>	=	=	=	=	=
viii. <u>Quantification limit;</u>	=	=	=	=	=
ix. <u>Stability of samples and reagents interlaboratory precision;</u>	=	=	=	=	=
x. <u>Analysis robustness;</u>	=	=	=	=	=
xi. <u>Presence of QC samples;</u>	=	=	=	=	=
xii. <u>Use of appropriate internal reference standard;</u>	=	=	=	=	=
xiii. <u>Daily monitoring of the response of the instrument;</u>	=	=	=	=	=
h. <u>Validation shall be performed for matrix extensions for each type of product tested, including data review of recovery for:</u>	-	-	-	-	-
i. Solvent-based extract;	-	-	-	-	-
ii. CO <sub>2</sub> extraction or other "hash oil";	-	-	-	-	-
iii. Extract made with food grade ethanol;	-	-	-	-	-
iv. Extract made with food grade glycerin or propylene glycol;	-	-	-	-	-
v. Infused liquids;	-	-	-	-	-
vi. Infused solids;	-	-	-	-	-
vii. Infused topical preparations;	-	-	-	-	-
viii. Other oils, butter or fats.	-	-	-	-	-
<del>(d. Presence of QC samples and recording of daily testing.</del>	-	-	-	-	-
e. <u>Appropriate use of an internal reference standard.</u>	-	-	-	-	-
f. <u>Daily monitoring of the response of the instrument detection system.</u>	-	-	-	-	-
31-)) <u>33. Estimation of uncertainty of measurement.</u>	=	=	=	=	=
a. <u>Testing laboratories shall have and shall apply procedures for estimating uncertainty of measurement. The laboratory shall at least attempt to identify all the components of uncertainty and make a reasonable estimation, and shall ensure that the form of reporting of the result does not give a wrong impression of the uncertainty. Reasonable estimation shall be based on knowledge of the performance of the method and on the measurement scope and shall make use of, for example, previous experience and validation data.</u>	=	=	=	=	=
b. <u>In those cases where a well-recognized test method specifies limits to the values of the major sources of uncertainty of measurement and specifies the form of presentation of calculated results, the laboratory is considered to have satisfied this clause by following the test method and reporting instructions.</u>	=	=	=	=	=

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
c. <u>When estimating the uncertainty of measurement, all uncertainty components which are of importance in the given situation shall be taken into account using appropriate methods of analysis.</u>	-	-	-	-	-
d. <u>Sources contributing to the uncertainty include, but are not necessarily limited to, the reference standards and reference materials used, methods and equipment used, environmental conditions, properties and condition of the item being tested or calibrated, and the operator.</u>	-	-	-	-	-
e. <u>Test methods are classified as either qualitative or quantitative. Qualitative tests are defined as having nonnumerical results. Although estimation of measurement uncertainty is not needed for these tests, laboratories are expected to have an understanding of the contributors to variability of the results. For quantitative tests, laboratories shall determine measurement uncertainty using appropriate statistical techniques.</u>	-	-	-	-	-
f. <u>Laboratories shall make independent estimations of uncertainty for tests performed on samples with significantly different matrices.</u>	-	-	-	-	-
g. <u>Laboratories are required to re-estimate measurement uncertainty when changes to their operations are made that may affect sources of uncertainty.</u>	-	-	-	-	-
h. <u>When reporting measurement uncertainty, the test report shall include the coverage factor and confidence level used in the estimations (typically k = approximately 2 at the 95% confidence level).</u>	-	-	-	-	-
34. Other methods.	-	-	-	-	-
a. <u>Validated</u> microbiological methods fit for purpose.	-	-	-	-	-
b. Microbial contaminants within limits ( <del>of those listed in the most recent AHP monograph and otherwise</del> ) <u>as</u> directed by WSLCB.	-	-	-	-	-
c. Moisture content testing fit for purpose. Scientifically valid testing methodology: ( <del>Either</del> ) AHP monograph compliant, <u>or</u> other third-party validation.	-	-	-	-	-
d. Solvent residuals testing fit for purpose; solvent extracted products made with class 3 or other solvents used are not to exceed 500 parts per million (PPM) per one gram of solvent based product and are to be tested.	-	-	-	-	-
e. Any other QA/QC methods is proven to be fit for purpose.	-	-	-	-	-
<del>((32-))</del> Laboratory ( <del>(notebooks)</del> ) <u>records</u> .	-	-	-	-	-
35.					
a. Legible and in ink (or computerized system).	-	-	-	-	-
b. Signed and dated.	-	-	-	-	-
c. Changes initialed and dated.	-	-	-	-	-
d. ( <del>(Periodically reviewed)</del> ) <u>Evidence of periodic review</u> and signed by a management representative.	-	-	-	-	-
<del>((33-))</del> Preventive/corrective action.	-	-	-	-	-
36.					

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
The laboratory shall <del>((have a process in place to document quality affecting preventive/corrective actions through resolution))</del> <u>establish a policy and procedure and shall designate appropriate authorities for implementing corrective action when nonconforming work or departures from the policies and procedures in the management system or technical operations are identified.</u>	-	-	-	-	-
a. <u>The procedure for corrective action shall start with an investigation to determine the root cause(s) of the problem.</u>	=	=	=	=	=
b. <u>Where corrective action is needed, the laboratory shall identify potential corrective actions. It shall select and implement the action(s) most likely to eliminate the problem and to prevent recurrence.</u>	=	=	=	=	=
c. <u>The laboratory shall document and implement any required changes resulting from corrective action investigations.</u>	=	=	=	=	=
d. <u>Any PT round that leads to the nonproficient status of a laboratory shall be addressed by the corrective action process.</u>	=	=	=	=	=
e. <u>The laboratory shall monitor the results to ensure that the corrective actions taken have been effective.</u>	=	=	=	=	=
f. <u>When improvement opportunities are identified or if preventive action is required, action plans shall be developed, implemented and monitored to reduce the likelihood of the occurrence of such nonconformities and to take advantage of the opportunities for improvement.</u>	=	=	=	=	=
37. <u>Complaints.</u>	=	=	=	=	=
a. <u>The laboratory shall have a policy and procedure for the resolution of complaints received from customers or other parties.</u>	=	=	=	=	=
b. <u>Records shall be maintained of all complaints and of the investigations and corrective actions taken by the laboratory.</u>	=	=	=	=	=
c. <u>Test reports.</u>	=	=	=	=	=
d. <u>Each test report or calibration certificate shall include at least the following information, unless otherwise justified:</u>	=	=	=	=	=
i. <u>A title (e.g., "Test Report" or "Calibration Certificate");</u>	=	=	=	=	=
ii. <u>The name and address of the laboratory, and the location where the tests and/or calibrations were carried out, if different from the address of the laboratory;</u>	=	=	=	=	=
iii. <u>Unique identification of the test report or calibration certificate (such as the serial number), and on each page an identification in order to ensure that the page is recognized as a part of the test report or calibration certificate, and a clear identification of the end of the test report or calibration certificate;</u>	=	=	=	=	=
iv. <u>The name and address of the customer;</u>	=	=	=	=	=
v. <u>Identification of the method used;</u>	=	=	=	=	=
vi. <u>A description of, the condition of, and unambiguous identification of the item(s) tested or calibrated;</u>	=	=	=	=	=
vii. <u>The date of receipt of the test or calibration item(s) where this is critical to the validity and application of the results, and the date(s) of performance of the test or calibration;</u>	=	=	=	=	=

QA PROGRAM AND TESTING	Document Reference	Y	N	NA	Comments
viii. <u>Reference to the sampling plan and procedures used by the laboratory or other bodies where these are relevant to the validity or application of the results;</u>	=	=	=	=	=
ix. <u>The test or calibration results with, where appropriate, the units of measurement;</u>	=	=	=	=	=
x. <u>The name(s), function(s) and signature(s) or equivalent identification of person(s) authorizing the test report or calibration certificate; and</u>	=	=	=	=	=
xi. <u>Where relevant, a statement to the effect that the results relate only to the items tested or calibrated.</u>	=	=	=	=	=
((34-)) Periodic management review <u>and internal audit.</u> 38.	-	-	-	-	-
a. Laboratory management shall ((periodically)) <u>annually</u> review its quality system and associated procedures to evaluate continued adequacy. This review shall be documented.	-	-	-	-	-
b. <u>Periodically and in accordance with a predetermined schedule perform an internal audit of laboratory operations to verify compliance to the GLP checklist.</u>	=	=	=	=	=

NEW SECTION

**WAC 314-55-1025 Proficiency testing.** (1) For the purposes of this section, the following definitions apply:

(a) "Field of testing" means the categories of subject matter the laboratory tests, such as pesticide, microbial, potency, residual solvent, heavy metal, mycotoxin, foreign matter, and moisture content detection.

(b) "Proficiency testing (PT)" means the analysis of samples by a laboratory obtained from providers where the composition of the sample is unknown to the laboratory performing the analysis and the results of the analysis are used in part to evaluate the laboratory's ability to produce precise and accurate results.

(c) "Proficiency testing (PT) program" means an operation offered by a provider to detect a laboratory's ability to produce valid results for a given field of testing.

(d) "Provider" means a third-party company, organization, or entity not associated with certified laboratories or a laboratory seeking certification that operates an approved PT program and provides samples for use in PT testing.

(e) "Vendor" means an organization(s) approved by the WSLCB to certify laboratories for marijuana testing, approve PT programs, and perform on-site assessments of laboratories.

(2) The WSLCB or its vendor determines the sufficiency of PTs and maintains a list of approved PT programs. Laboratories may request authorization to conduct PT through other PT programs but must obtain approval for the PT program from WSLCB or WSLCB's vendor prior to conducting PT. The WSLCB may add the newly approved PT program to the list of approved PT programs as appropriate.

(3) As a condition of certification, laboratories must participate in PT and achieve a passing score for each field of testing for which the lab will be or is certified.

(4) A laboratory must successfully complete a minimum of one round of PT for each field of testing the lab seeks to be certified for and provide proof of the successful PT results prior to initial certification.

(5)(a) A certified laboratory must participate in a minimum of two rounds of PT per year for each field of testing to maintain its certification.

(b) To maintain certification, the laboratory must achieve a passing score, on an ongoing basis, in a minimum of two out of three successive rounds of PT. At least one of the scores must be from a round of PT that occurs within six months prior to the laboratory's certification renewal date.

(6) If the laboratory fails to achieve a passing score on at least eighty percent of the analytes in any proficiency test, the test is considered a failure. If the PT provider provides a pass/fail on a per analyte basis but not on the overall round of PT the lab participates in, the pass/fail evaluation for each analyte will be used to evaluate whether the lab passed eighty percent of the analytes. If the PT provider does not provide individual acceptance criteria for each analyte, the following criteria will be applied to determine whether the lab achieves a passing score for the round of PT:

(a) +/- 30% recovery from the reference value for residual solvent testing; or

(b) +/- 3 z or 3 standard deviations from the reference value for all other fields of testing.

(7) If a laboratory fails a round of PT or reports a false negative on a micro PT, the laboratory must investigate the root cause of the laboratory's performance and establish a corrective action report for each unsatisfactory analytical result. The corrective action report must be kept and maintained by the laboratory for a period of three years, available for review during an on-site assessment or inspection, and provided to the WSLCB or WSLCB's vendor upon request.

(8) Laboratories are responsible for obtaining PT samples from vendors approved by WSLCB or WSLCB's vendor. Laboratories are responsible for all costs associated with obtaining PT samples and rounds of PT.

(9) The laboratory must manage, analyze and report all PT samples in the same manner as customer samples including, but not limited to, adhering to the same sample tracking, sample preparation, analysis methods, standard operating procedures, calibrations, quality control, and acceptance criteria used in testing customer samples.

(10) The laboratory must authorize the PT provider to release all results used for certification and/or remediation of failed studies to WSLCB or WSLCB's vendor.

(11) The WSLCB may require the laboratory to submit raw data and all photographs of plated materials along with the report of analysis of PT samples. The laboratory must keep and maintain all raw data and all photographs of plated materials from PT for a period of three years.

(12) The WSLCB may waive proficiency tests for certain fields of testing if PT samples or PT programs are not readily available or for other valid reasons as determined by WSLCB.

(13)(a) The WSLCB will suspend a laboratory's certification if the laboratory fails to maintain a passing score on an ongoing basis in two out of three successive PT studies. The WSLCB may reinstate a laboratory's suspended certification if the laboratory successfully analyzes PT samples from a WSLCB or WSLCB's vendor approved PT provider, so long as the supplemental PT studies are performed at least fifteen days apart from the analysis date of one PT study to the analysis date of another PT study.

(b) The WSLCB will suspend a laboratory's certification if the laboratory fails two consecutive rounds of PT. WSLCB may reinstate a laboratory's suspended certification once the laboratory conducts an investigation, provides the WSLCB a deficiency report identifying the root cause of the failed PT, and successfully analyzes PT samples from a WSLCB or WSLCB's vendor approved PT provider. The supplemental PT studies must be performed at least fifteen days apart from the analysis date of one PT study to the analysis date of another PT study.

(14) If a laboratory fails to remediate and have its certification reinstated under subsection (13)(a) or (b) of this section within six months of the suspension, the laboratory must reapply for certification as if the laboratory was never certified previously.

(15) A laboratory that has its certification suspended or revoked under this section may request an administrative hearing to contest the suspension as provided in chapter 34.05 RCW.

#### NEW SECTION

**WAC 314-55-1035 Laboratory certification—Suspension and revocation.** (1) The board may summarily suspend or revoke the certification of any lab certified under WAC 314-55-0995 for any of the following reasons:

(a) The laboratory owner or science director violates any of the requirements of chapter 314-55 WAC relating to the operations of the laboratory.

(b) The laboratory owner or science director aids, abets, or permits the violation of any provision of chapters 314-55 WAC, 69.50 RCW, 69.51A RCW, or Title 9 or 9A RCW related to the operations of the laboratory, or the laboratory owner or science director permits laboratory staff to do so.

(c) Evidence the certificate holder or owner made false statements in any material regard:

(i) On the application for certification;

(ii) In submissions to the board relating to receiving or maintaining certification; or

(iii) Regarding any testing performed or results provided to WSLCB or the marijuana licensee by the certificate holder or owner pursuant to WAC 314-55-102.

(d) The laboratory owner or science director is convicted of any crime substantially related to the qualifications or duties of that owner and related to the functions of the laboratory, including a conviction for falsifying any report of or that relates to a laboratory analysis. For purposes of this subsection, a "conviction" means a plea or finding of guilt regardless of whether the imposition of sentence is deferred or the penalty is suspended.

(e) The laboratory submits proficiency test sample results generated by another laboratory as its own.

(f) The laboratory staff denies entry to any employee of the WSLCB or WSLCB's vendor during normal business hours for an on-site assessment or inspection, as required by WAC 314-55-0995, 314-55-102, 314-55-1025, or 314-55-103.

(2)(a) The following violations are subject to the penalties as provided in (b) of this subsection:

(i) The laboratory fails to submit an acceptable corrective action report in response to a deficiency report, and failure to implement corrective action related to any deficiencies found during a laboratory assessment.

(ii) The laboratory fails to report proficiency testing results pursuant to WAC 314-55-1025.

(iii) The laboratory fails to remit certification fees within the time limit established by a certifying authority.

(iv) The laboratory fails to meet recordkeeping requirements as required by chapter 314-55 WAC unless the failure to maintain records is substantial enough to warrant a suspension or revocation under subsection (1) of this section.

(b) The penalties for the violations in (a) of this subsection are as follows:

(i) First violation: Ten-day suspension of the lab's certification or until the lab corrects the violation leading to the suspension, whichever is longer.

(ii) Second violation within a three-year period: Thirty-day suspension of laboratory certification or until the laboratory corrects the violation leading to the suspension, whichever is longer.

(iii) Third violation within a three-year period: Revocation of the lab's certification.

(3) A certified lab may also be subject to a suspension of certification related to proficiency testing requirements under WAC 314-55-1025.

(4) A laboratory that has its certification suspended or revoked under this section may request an administrative hearing to contest the suspension or revocation as provided in chapter 34.05 RCW.

## NEW SECTION

**WAC 314-55-108 Pesticide action levels.** (1) Only pesticides allowed under WAC 314-55-084 may be used in the production of marijuana, and they must be registered by the Washington state department of agriculture (WSDA) under chapter 15.58 RCW.

(2) Pursuant to WAC 314-55-102, if the WSLCB, WSDA, other designee of the WSLCB, or certified lab identifies a pesticide that is not allowed under subsection (1) of this section and is above the action levels provided in subsection (3) of this section, that lot or batch from which the sample was deducted has failed quality assurance testing and may be subject to a recall as provided in WAC 314-55-225.

(3) The action levels for pesticides are provided in the table below. The action level for all other pesticides that are not listed in the table below or not allowed under subsection (1) of this section is 0.1 ppm.

Analyte	Chemical Abstract Services (CAS) Registry Number	Action Level ppm
Abamectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2
Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cyfluthrin	68359-37-5	1
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1

Analyte	Chemical Abstract Services (CAS) Registry Number	Action Level ppm
Fludioxonil	131341-86-1	0.4
Hexythiazox	78587-05-0	1
Imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	121-75-5	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Pacllobutrazol	76738-62-0	0.4
Permethrins <sup>a</sup>	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide <sup>b</sup>	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins <sup>bc</sup>	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

<sup>a</sup>Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8 respectively).

<sup>b</sup>Action level applies to marijuana concentrates, marijuana extracts, intermediate products, and imported cannabinoids.

<sup>c</sup>Pyrethrins should be measured as the cumulative residues of pyrethrin 1, cinerin 1, and jasmolin 1 (CAS numbers 121-21-1, 25402-06-6, and 4466-1-2 respectively).

(4) Except as otherwise provided in this section, licensed marijuana producer or processor that provided a sample that fails quality assurance testing must dispose of the entire lot or batch from which the sample was taken as provided by marijuana waste disposal requirements in WAC 314-55-097 and

document the disposal of the sample pursuant to traceability requirements in WAC 314-55-083(4) and recordkeeping requirements in WAC 314-55-087. A licensee's sample that does not test above the pesticide action levels under this section where test results show the presence of a pesticide that is not allowed under subsection (1) of this section may still be subject to an administrative violation if the disallowed pesticide was applied.

(5) Except as otherwise provided in this section, a licensed marijuana producer or processor which provided a sample that fails quality assurance testing must dispose of the entire lot or batch from which the sample was taken as provided by marijuana waste disposal requirements in WAC 314-55-097 and document the disposal of the sample pursuant to traceability requirements in WAC 314-55-083(4) and recordkeeping requirements in WAC 314-55-087.

(6) Pursuant to WAC 314-55-102, at the request of the producer or processor, the WSLCB may authorize a retest to validate a failed test result on a case-by-case basis. All costs of the retest will be borne by the producer or the processor requesting the retest.

(7) Producers and processors may remediate failed harvests, lots, or batches so long as the remediation method does not impart any toxic or deleterious substance to the usable marijuana, marijuana concentrates, or marijuana-infused product. Remediation solvents or methods used on the marijuana product must be disclosed to a licensed retailer or consumer upon request. The entire harvest, lot, or batch the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated harvest, lots or batches may be sold or transported until the completion and successful passage of quality assurance testing as required in this section and WAC 314-55-102.

(8) Pursuant to WAC 314-55-102, upon request a marijuana licensee must disclose and make available all quality assurance tests and retest results for the lot or batch of usable marijuana, marijuana concentrates, or marijuana-infused products to the marijuana licensee or retail customer who is considering purchasing the usable marijuana, marijuana concentrates, or marijuana-infused products.

**Reviser's note:** The spelling errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 17-07-081

### PROPOSED RULES

### DEPARTMENT OF HEALTH

[Filed March 20, 2017, 9:33 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 16-15-061.

Title of Rule and Other Identifying Information: WAC 246-803-030 East Asian medicine and 246-803-040 Education and training for point injection therapy, the department of health is proposing to amend WAC 246-803-030 to define point injection therapy and list substances that may be administered as part of point injection therapy consistent with the

practice of East Asian medicine, and proposes new WAC 246-803-040 to specify the education and training necessary to provide point injection therapy.

Hearing Location(s): Department of Health, 111 Israel Road S.E., Town Center 2, Room 158, Tumwater, WA 98501, on April 28, 2017, at 11:30 a.m.

Date of Intended Adoption: May 5, 2017.

Submit Written Comments to: Vicki Brown, Program Manager, Office of Health Professions, East Asian Medicine Practitioner (EAMP) Program, P.O. Box 47852, Olympia, WA 98504-7853 [98504-7852], email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by April 28, 2017.

Assistance for Persons with Disabilities: Contact Vicki Brown by April 21, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SSB [SHB] 2448 (chapter 97, Laws of 2016) adds the substances that can be injected using point injection therapy with the required education and training. Rule making is necessary to align the existing rules with the new legislation. The proposed rules define point injection therapy, lists out the approved substances that can be administered as part of point injection therapy consistent with the practice of East Asian medicine, and establishes the education and training required to provide point injection therapy.

Reasons Supporting Proposal: SHB 2448 (chapter 97, Laws of 2016) requires the department to adopt rules that define point injection therapy, list out the substances that can be administered as part of point injection therapy consistent with the practice of East Asian medicine, and specify the education and training necessary to provide point injection therapy. The proposed rules would inform practitioners about what substances may be used in point injection therapy, and the training needed to assure that EAMPs perform point injection therapy safely.

Statutory Authority for Adoption: SHB 2448 (chapter 97, Laws of 2016) and RCW 18.06.140.

Statute Being Implemented: Chapter 18.06 RCW.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Vicki Brown, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4865.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rules would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting Vicki Brown, Program Manager, Office of Health Professions, EAMP Program, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4865, fax (360) 236-2901, email [vicki.brown@doh.wa.gov](mailto:vicki.brown@doh.wa.gov).

March 20, 2017

John Wiesman, DrPH, MPH  
Secretary



AMENDATORY SECTION (Amending WSR 11-17-105, filed 8/22/11, effective 9/22/11)

**WAC 246-803-030 East Asian medicine.** East Asian medicine is a health care service using East Asian medicine diagnosis and treatment to promote health and treat organic or functional disorders. East Asian medicine includes the following:

(1) Acupuncture. Acupuncture includes the use of acupuncture needles or lancets to directly or indirectly stimulate acupuncture points and meridians;

(2) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(3) Moxibustion;

(4) Acupressure;

(5) Cupping;

(6) Dermal friction technique;

(7) Infrared;

(8) Sonopuncture;

(9) Laserpuncture;

(10) Point injection therapy (aquapuncture)(~~;~~):

(a) Is the subcutaneous, intramuscular and intradermal injection of substances consistent with the practice of East Asian medicine to stimulate acupuncture points, AHSHI points, trigger points and meridians. Substances are limited to:

(i) Saline;

(ii) Sterile water;

(iii) Herbs specifically manufactured for injection by means of hypodermic needles;

(iv) Minerals specifically manufactured for injection by means of hypodermic needles;

(v) Vitamins in liquid form specifically manufactured for injection by means of hypodermic needles; and

(vi) Homeopathic and nutritional substances specifically manufactured for injection by means of hypodermic needles.

(b) For the purposes of this section, trigger points are included as a subset of acupuncture points and AHSHI points as recognized in the current practice of East Asian medicine.

(c) Point injection therapy does not include injection of controlled substances contained in Schedules I through V of the Uniform Controlled Substances Act, chapter 69.50 RCW or steroids as defined in RCW 69.41.300.

(11) Dietary advice and health education based on East Asian medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements.

Health education. Health education is educational information directed to the patient that attempts to improve, maintain, promote and safeguard the health care of the patient. Health education consists of educating the patient on how the mind, body and spirit connect in context of imbalances, emotional patterns and tendencies as defined by and treated in East Asian medicine. Health education does not include mental health counseling;

(12) Breathing, relaxation, and East Asian exercise techniques;

(13) Qi gong;

(14) East Asian massage. East Asian massage means manual techniques having originated in East Asia involving

the manipulation of the soft tissues of the body for therapeutic purposes.

(a) East Asian massage consists of:

(i) Applying fixed or movable pressure;

(ii) Passive, resistive, and assisted stretching of fascial and connective tissue;

(iii) Holding or causing movement of the body; or

(iv) Tapping, compressions or friction.

(b) East Asian massage may be performed with the use of tools common to the practice and aids of superficial heat, cold, water, lubricants, salts, minerals, liniments, poultices, and herbs.

(c) East Asian massage does not include attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force;

(15) Tui na. Tui na is a method of East Asian bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation; and

(16) Superficial heat and cold therapies.

#### NEW SECTION

**WAC 246-803-040 Education and training for point injection therapy.** East Asian medicine practitioners employing point injection therapy shall use only those substances and techniques for which they have received training.

(1) The education and training for point injection therapy shall:

(a) Consist of a minimum total of twenty-four contact hours of training in the topics required in this section;

(b) Include at least eight hours of clinical practical experience; and

(c) Be administered by an instructor that meets the requirements of subsection (4) of this section.

(2) Curriculum for a point injection therapy training program must include:

(a) Review of physical examination, contraindications and universal precautions, and differential diagnosis;

(b) Compounding and administration of the substances authorized for point injection therapy under WAC 246-803-030, including aseptic technique, recordkeeping and storage of substances authorized for use in point injection therapy;

(c) Emergency procedures;

(d) Point injection therapy techniques and contraindication within the East Asian medicine scope of practice relative to the authorized substances listed in WAC 246-803-030 (10)(a)(i) through (vi).

(3) Except for the training in the use of inhaled oxygen and intramuscular epinephrine, the training must be delivered in person and not through webinar or other online or distance learning method.

(4) Requirements for instructors in point injection therapy. The instructor must have:

(a) A health care credential in good standing with a scope of practice that includes point injection therapy; and

(b) At least five years of experience in a health care practice that includes point injection therapy.

(5) In addition to point injection therapy meeting the requirements of subsections (1) and (2) of this section, East Asian medicine practitioners using point injection therapy must complete training in the use of inhaled oxygen (O<sub>2</sub>) and intramuscular epinephrine.

(a) Training in the use of inhaled oxygen and intramuscular epinephrine must be according to RCW 70.54.440(4).

(b) This training may be taken separately from the training in point injection therapy.

(c) Up to two hours of training in the use of inhaled oxygen and intramuscular epinephrine count in meeting the requirement for twenty-four hours of training.

(d) Subsection (a) of this section does not apply to East Asian medicine practitioners who hold an active credential with a scope of practice that includes the authority to prescribe, dispense or administer epinephrine.

(6) To qualify under this section, the training program shall provide each successful student with a:

(a) Certificate of successful completion of the program; and

(b) Course syllabus outlining the schedule and curriculum of the program.

(7) The requirements of subsections (1) through (6) of this section do not apply to an East Asian medicine practitioner who has provided point injection therapy prior to July 1, 2017. East Asian medicine practitioners using point injection therapy prior to July 1, 2017, must have completed training and education in point injection therapy.

(8) Any East Asian medicine practitioner performing point injection therapy must be able to demonstrate, upon request of the department of health, successful completion of education and training in point injection therapy.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 17-07-088

### PROPOSED RULES

#### WENATCHEE VALLEY COLLEGE

[Filed March 20, 2017, 11:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-04-043.

Title of Rule and Other Identifying Information: WAC 132W-300-001 Nondiscrimination and harassment policy and 132W-300-010 Discrimination and harassment.

Hearing Location(s): Wenatchee Valley College, 1300 Fifth Street, Wenatchee, WA 98801, on May 17, 2017, at 4 p.m.

Date of Intended Adoption: June 1, 2017.

Submit Written Comments to: Reagan Bellamy, 1300 Fifth Street, Wenatchee, WA 98801, email rbellamy@wvc.edu, fax (509) 682-6441, by May 1, 2017.

Assistance for Persons with Disabilities: Contact Carla Boyd, cboyd@wvc.edu, (509) 682-6854.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This policy is pro-

posed to condense, replace and update existing policies regarding the college's responsibility to prevent discrimination and harassment throughout the college community.

Reasons Supporting Proposal: This policy will meet federal and state laws as follows: Title VI of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Sections 504 and 508 of the Rehabilitation Act of 1973, the Americans Reauthorization Act and Washington state's law against discrimination, chapter 49.60 RCW and their implementing regulations.

Statutory Authority for Adoption: Title 28B RCW.

Rule is necessary because of federal law, [no further information supplied by agency].

Name of Proponent: Wenatchee Valley College, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Reagan Bellamy, 1300 Fifth Street, Wenatchee, WA 98801, (509) 682-6445.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There will be no impact on any entity other than Wenatchee Valley College.

A cost-benefit analysis is not required under RCW 34.05.328. There is no significant economic impact.

March 20, 2017

Jim Richardson

President

AMENDATORY SECTION (Amending WSR 01-14-016, filed 6/25/01, effective 7/26/01)

**WAC 132W-300-001 (~~Grievance procedures—Discrimination~~) Nondiscrimination and harassment policy.** (~~The procedures for resolving all types of discrimination and harassment complaints are described below and provide a means for resolving any alleged unfair or improper action.~~) Wenatchee Valley College is committed to the policy that all persons shall have equal access to college programs, facilities, admission and employment. Furthermore, it is the policy of Wenatchee Valley College to maintain an academic and work environment free of discrimination, including harassment. The college prohibits discrimination and harassment against any person because of race, creed, color, religion, national or ethnic origin, parental status or families with children, marital status, sex (gender), sexual orientation, gender identity or expression, age, genetic information, honorably discharged veteran or military status as required by Title VI of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability, or any other prohibited basis per RCW 49.60.030, 49.60.040 and other federal laws and regulations, or participation in the complaint process.

All college faculty, staff and students must comply with this policy and are also expected to take appropriate measures to prevent discrimination or harassment. Faculty, staff or students who believe they are being discriminated against or harassed for one of the reasons listed above or who witness

potential discrimination or harassment are encouraged to report the offending conduct. Prompt corrective measures will be taken to stop discrimination or harassment whenever and wherever it occurs.

AMENDATORY SECTION (Amending WSR 01-14-016, filed 6/25/01, effective 7/26/01)

**WAC 132W-300-010 ((Definitions.)) Discrimination and harassment. ((1) Complaint means the cause of dissatisfaction, resentment, or discontent which leads to a petition, a grievance, or an appeal.**

**(2) Discrimination means an action or actions based on prejudice.**

**(3) Grievance means the formal request to some higher authority for action when the complaint includes the allegation of violations of the policies of the college.**

**(4) Grievant means an individual or a group of individuals who have a complaint or are filing a grievance.**

**(5) Harassment means to persistently act to disturb or irritate.**

**(6) Petition means an informal request to resolve complaints prior to engaging in the grievance process.)) (1)**

**Introduction.**

Wenatchee Valley College recognizes its responsibility for investigation, resolution, implementation of corrective measures, and monitoring the educational environment and workplace to stop, remediate, and prevent discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, honorably discharged veteran or military status, or use of a trained dog guide or service animal, as required by Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Sections 504 and 508 of the Rehabilitation Act of 1973, the Americans with Disabilities Act and ADA Amendment Act, the Age Discrimination Act of 1975, the Violence Against Women Reauthorization Act and Washington state law against discrimination, chapter 49.60 RCW and their implementing regulations. To this end, Wenatchee Valley College has enacted policies prohibiting discrimination against and harassment of members of these protected classes. Any individual found to be in violation of these policies will be subject to disciplinary action up to and including dismissal from the college or from employment. Any employee, student, applicant, or visitor who believes that he or she has been the subject of discrimination or harassment should report the incident or incidents to the college's Title IX/EEO coordinator identified below. If the complaint is against that coordinator, the complainant should report the matter to the president's office for referral to an alternate designee.

Title: Executive Director of Human Resources, Title IX/EEO coordinator

Office: Human Resources

Contact info: 509-682-6445

The Title IX/EEO coordinator or designee:

(a) Will accept all complaints and referrals from college employees, applicants, students, and visitors.

(b) Will make determinations regarding how to handle requests by complainants for confidentiality.

(c) Will keep accurate records of all complaints and referrals for the required time period.

(d) May conduct investigations or delegate and oversee investigations conducted by a designee.

(e) May impose interim remedial measures to protect parties during investigations of discrimination or harassment.

(f) Will issue written findings and recommendations upon completion of an investigation.

(g) May recommend specific corrective measures to stop, remediate and prevent the recurrence of inappropriate conduct.

The college encourages the timely reporting of any incidents of discrimination or harassment. Complaints may be submitted in writing or orally. For complainants who wish to submit a written complaint, a formal complaint form is available online on the policies and procedures web page. Hardcopies of the complaint form are available at the following locations: Human resources office, Wenatchi Hall on the Wenatchee campus and the front desk of the administrative office on the Omak campus.

**(2) Definitions.**

**(a) Complainant: Employee(s), applicant(s), student(s), or visitor(s) of Wenatchee Valley College who alleges that she or he has been subjected to discrimination or harassment due to his or her membership in a protected class.**

**(b) Complaint: A description of facts that allege violation of the college's policy against discrimination or harassment.**

**(c) Consent: Knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.**

**(i) A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.**

**(ii) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.**

**(d) Discrimination: Unfavorable treatment of a person based on that person's membership or perceived membership in a protected class. Harassment is a form of discrimination.**

**(e) Harassment: A form of discrimination consisting of physical or verbal conduct that denigrates or shows hostility toward an individual because of their membership in a protected class or their perceived membership in a protected class. Harassment occurs when the conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing. Petty slights, annoy-**

ances, offensive utterances, and isolated incidents (unless extremely serious) typically do not qualify as harassment. Examples of conduct that could rise to the level of discriminatory harassment include, but are not limited to, the following:

(i) Epithets, jokes, ridicule, mockery or other offensive or derogatory conduct focused upon an individual's membership in a protected class.

(ii) Verbal or physical threats of violence or physical contact directed towards an individual based upon their membership in a protected class.

(iii) Making, posting, emailing, texting, or otherwise circulating demeaning or offensive pictures, cartoons, graffiti, notes or other materials that relate to race, ethnic origin, gender or any other protected class.

(f) **Protected class:** Persons who are protected under state or federal civil rights laws, including laws that prohibit discrimination on the basis of race, color, national origin, age, perceived or actual physical or mental disability, pregnancy, genetic information, sex, sexual orientation, gender identity, marital status, creed, religion, honorably discharged veteran or military status, or use of a trained dog guide or service animal.

(g) **Resolution:** The means by which the complaint is finally addressed. This may be accomplished through informal or formal processes, including counseling, mediation, or the formal imposition of discipline sanction.

(h) **Respondent:** Person or persons who are members of the campus community who allegedly discriminated against or harassed another person or persons.

(i) **Sexual harassment:** A form of discrimination consisting of unwelcome, gender-based verbal, written, electronic and/or physical conduct. Sexual harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's gender. There are two types of sexual harassment.

(i) **Hostile environment sexual harassment** occurs when the conduct is sufficiently severe and/or pervasive and so objectively offensive that it has the effect of altering the terms or conditions of employment or substantially limiting the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing.

(ii) **Quid pro quo sexual harassment** occurs when an individual in a position of real or perceived authority, conditions the receipt of a benefit upon granting of sexual favors.

Examples of conduct that may qualify as sexual harassment include:

(A) Persistent comments or questions of a sexual nature.

(B) A supervisor who gives an employee a raise in exchange for submitting to sexual advances.

(C) An instructor who promises a student a better grade in exchange for sexual favors.

(D) Sexually explicit statements, questions, jokes, or anecdotes.

(E) Unwelcome touching, patting, hugging, kissing, or brushing against an individual's body.

(F) Remarks of a sexual nature about an individual's clothing, body, or speculations about previous sexual experiences.

(G) Persistent, unwanted attempts to change a professional relationship to an amorous relationship.

(H) Direct or indirect propositions for sexual activity.

(I) Unwelcome letters, emails, texts, telephone calls, or other communications referring to or depicting sexual activities.

(j) **Sexual violence:** Is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) **Nonconsensual sexual contact** is any intentional sexual touching, however slight, with any object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) **Domestic violence** includes asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

(iv) **Dating violence** means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

(v) **Stalking** means intentional and repeated harassment or following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated or harassed, even if the perpetrator lacks such intent.

### (3) **Who may file a complaint.**

Any employee, applicant, student or visitor of the college may file a complaint. Complaints may be submitted in writing or verbally. The college encourages the timely reporting of any incidents of discrimination or harassment. For complainants who wish to submit a written complaint, a formal complaint form is available online on the policies and procedures web page. Hardcopies of the complaint form are available at the following locations: Human resources office, Wenatchi Hall on the Wenatchee campus and the front desk of the administrative office on the Omak campus.

### (4) **Confidentiality and right to privacy.**

Wenatchee Valley College will seek to protect the privacy of the complainant to the full extent possible, consistent with the legal obligation to investigate, take appropriate remedial and/or disciplinary action, and comply with the federal and state law, as well as Wenatchee Valley College policies and procedures. Although Wenatchee Valley College will attempt to honor complainants' requests for confidentiality, it cannot guarantee complete confidentiality. Determina-

tions regarding how to handle requests for confidentiality will be made by the Title IX/EEO coordinator.

**(5) Confidentiality requests and sexual violence complaints.**

The Title IX/EEO coordinator will inform and obtain consent from the complainant before commencing an investigation into a sexual violence complaint. If a sexual violence complainant asks that his or her name not be revealed to the respondent or that the college not investigate the allegation, the Title IX/EEO coordinator will inform the complainant that maintaining confidentiality may limit the college's ability to fully respond to the allegations and that retaliation by the respondent and/or others is prohibited. If the complainant still insists that his or her name not be disclosed or that the college not investigate, the Title IX/EEO coordinator will determine whether the college can honor the request and at the same time maintain a safe and nondiscriminatory environment for all members of the college community, including the complainant. Factors to be weighed during this determination may include, but are not limited to:

(a) The seriousness of the alleged sexual violence.

(b) The age of the complainant.

(c) Whether the sexual violence was perpetrated with a weapon.

(d) Whether the respondent has a history of committing acts of sexual violence or violence or has been the subject of other sexual violence complaints.

(e) Whether the respondent threatened to commit additional acts of sexual violence against the complainant or others.

(f) Whether relevant evidence can be obtained through other means (e.g., security cameras, other witnesses, physical evidence).

If the college is unable to honor a complainant's request for confidentiality, the Title IX/EEO coordinator will notify the complainant of the decision and ensure that complainant's identity is disclosed only to the extent reasonably necessary to effectively conduct and complete the investigation.

If the college decides not to conduct an investigation or take disciplinary action because of a request for confidentiality, the Title IX/EEO coordinator will evaluate whether other measures are available to limit the effects of the harassment and prevent its recurrence and implement such measures if reasonably feasible.

**(6) Investigation procedure.**

Upon receiving a discrimination complaint, the college shall commence an impartial investigation. The Title IX/EEO coordinator shall be responsible for overseeing all investigations. Investigations may be conducted by the Title IX/EEO coordinator or his or her designee. If the investigation is assigned to someone other than the Title IX/EEO coordinator, the Title IX/EEO coordinator shall inform the complainant and respondent(s) of the appointment of an investigator.

**Interim measures.** The Title IX/EEO coordinator may impose interim measures to protect the complainant and/or respondent pending the conclusion of the investigation. Interim measures may include, but are not limited to, imposition of no contact orders, rescheduling classes, temporary work reassignments, referrals for counseling or medical

assistance, and imposition of summary discipline on the respondent consistent with the college's student conduct code or the college's employment policies and collective bargaining agreements.

**Investigation.** Complaints shall be thoroughly and impartially investigated. The investigation shall include, but is not limited to, interviewing the complainant and the respondent, relevant witnesses, and reviewing relevant documents. The investigation shall be concluded within a reasonable time, normally sixty days, barring urgent circumstances.

At the conclusion of the investigation the investigator shall set forth his or her findings and recommendations in writing. If the investigator is a designee, the investigator shall send a copy of the findings and recommendations to the Title IX/EEO coordinator. The Title IX/EEO coordinator shall consider the findings and recommendations and determine, based on a preponderance of the evidence, whether a violation of the discrimination and harassment policy occurred, and if so, what steps will be taken to resolve the complaint, remedy the effects on any victim(s), and prevent its recurrence. Possible remedial steps may include, but are not limited to, referral for voluntary training/counseling, development of a remediation plan, limited contact orders, and referral and recommendation for formal disciplinary action. Referrals for disciplinary action will be consistent with the student conduct code or college employment policies and collective bargaining agreements.

**Written notice of decision.** The Title IX/EEO coordinator will provide each party and the appropriate student services administrator or appointing authority with written notice of the investigative findings and of actions taken or recommended to resolve the complaint, subject to the following limitations. The complainant shall be informed in writing of the findings and of actions taken or recommended to resolve the complaint, if any, only to the extent that such findings, actions or recommendations directly relate to the complainant, such as a finding that the complaint is or is not meritorious or a recommendation that the accused not contact the complainant. The complainant may be notified generally that the matter has been referred for disciplinary action. The respondent shall be informed in writing of the findings and of actions taken or recommended to resolve the complaint and shall be notified of referrals for disciplinary action. Both the complainant and the respondent are entitled to review any final findings, conclusions, and recommendations, subject to any FERPA confidentiality requirements.

**Informal dispute resolution.** Informal dispute resolution processes, like mediation, may be used to resolve complaints, when appropriate. Informal dispute resolution shall not be used to resolve sexual discrimination complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

**Final decision/reconsideration.** Either the complainant or the respondent may seek reconsideration of the decision by the Title IX/EEO coordinator. Requests for reconsideration shall be submitted in writing to the Title IX/EEO coordinator within seven days of receiving the decision. Requests must

specify which portion of the decision should be reconsidered and the basis for reconsideration. If no request for reconsideration is received within seven days, the decision becomes final. If a request for reconsideration is received, the Title IX/EEO coordinator shall respond within thirty days. The Title IX/EEO coordinator shall either deny the request or, if the Title IX/EEO coordinator determines that the request for reconsideration has merit, issue an amended decision. Any amended decision is final and no further reconsideration is available.

**(7) Publication of antidiscrimination policies and procedures.**

The policies and procedures regarding complaints of discrimination and harassment shall be published and distributed as determined by the president or president's designee. Any person who believes he or she has been subjected to discrimination in violation of this procedure will be provided a copy of this procedure.

**(8) Limits to authority.**

Nothing in this procedure shall prevent the college president or designee from taking immediate disciplinary action in accordance with Wenatchee Valley College policies and procedures, and federal, state, and municipal rules and regulations.

**(9) Nonretaliation, intimidation and coercion.**

Retaliation by, for or against any participant (including complainant, respondent, witness, Title IX/EEO coordinator, or investigator) is expressly prohibited. Retaliatory action of any kind taken against individuals as a result of seeking redress under the applicable procedures or serving as a witness in a subsequent investigation or any resulting disciplinary proceedings is prohibited and is conduct subject to discipline. Any person who thinks he/she has been the victim of retaliation should contact the Title IX/EEO coordinator immediately.

**(10) Criminal complaints.**

Discriminatory or harassing conduct may also be, or occur in conjunction with, criminal conduct. Criminal complaints may be filed with the following law enforcement authorities:

- Wenatchee Police Department, 140 South Mission Street, 509-888-4200.
- Chelan County Sheriff's Office, 401 Washington Street, 509-667-6851.
- Washington State Patrol, 2822 Euclid Avenue, Wenatchee, 509-682-8090.

The college will proceed with an investigation of harassment and discrimination complaints regardless of whether the underlying conduct is subject to civil or criminal prosecution.

**(11) Other discrimination complaint options.**

Discrimination complaints may also be filed with the following federal and state agencies:

Washington State Human Rights Commission, <http://www.hum.wa.gov/index.html>.

U.S. Dept of Education Office for Civil Rights, <http://www2.ed.gov/about/offices/list/ocr/index.html>.

Equal Employment Opportunity Commission, <http://www.eeoc.gov/>.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 132W-300-020 Scope of procedure.
- WAC 132W-300-030 Confidentiality and right to privacy.
- WAC 132W-300-040 Limits to authority.
- WAC 132W-300-050 Informal petition options.
- WAC 132W-300-060 Formal grievance procedures.

**WSR 17-07-090**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Economic Services Administration)  
 [Filed March 20, 2017, 2:03 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-04-018.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?

Hearing Location(s): Office Building 2, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <https://www.dshs.wa.gov/sesa/rules-and-policies-assistance-unit/driving-directions-office-bldg-2>), on April 25, 2017, at 10:00 a.m.

Date of Intended Adoption: Not earlier than April 26, 2017.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov), fax (360) 664-6185, by 5:00 p.m., April 25, 2017.

Assistance for Persons with Disabilities: Contact Jeff Kildahl, DSHS rules consultant, by April 11, 2017, phone (360) 664-6092, TTY (360) 664-6178, or email [KildaJA@dshs.wa.gov](mailto:KildaJA@dshs.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to amend WAC 388-450-0195 in order to provide a standard utility allowance for basic food households that do not qualify for low-income home energy assistance solely due to immigration status.

Reasons Supporting Proposal: The proposed amendment will provide consistency between the basic food programs.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, 74.08A.120, 7 C.F.R. 273.9 (d)(6)(iii)(B).

Rule is necessary because of federal law, 7 C.F.R. 273.9 (d)(6)(iii)(B).

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Holly St. John, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4895.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses. It only impacts DSHS clients.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

March 17, 2017  
Katherine I. Vasquez  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 16-24-051, filed 12/1/16, effective 1/1/17)

**WAC 388-450-0195 Does the department use my utility costs when calculating my basic food or WASHCAP benefits?** (1) The department uses utility allowances instead of the actual utility costs your assistance unit (AU) pays when we determine your:

(a) Monthly benefits under WAC 388-492-0070 if you receive Washington state combined application project (WASHCAP); or

(b) Shelter cost income deduction under WAC 388-450-0190 for basic food.

(2) We use the amounts in this subsection if you have utility costs separate from your rent or mortgage payment:

(a) If your AU has heating or cooling costs ~~((or))~~ or receives more than twenty dollars in low income home energy assistance program (LIHEAP) benefits each year, you get a standard utility allowance (SUA) of four hundred eleven dollars.

(b) If your household does not receive a LIHEAP payment and the reason is solely because of your immigration status, you get a SUA of four hundred eleven dollars.

(c) If your AU does not qualify for the SUA and you have any two utility costs listed in subsection (3) of this section, you get a limited utility allowance (LUA) of three hundred nineteen dollars.

~~((e))~~ (d) If your AU has only telephone costs and no other utility costs, you get a telephone utility allowance (TUA) of fifty-seven dollars.

(3) "Utility costs" include the following:

- (a) Heating or cooling fuel;
- (b) Electricity or gas;
- (c) Water;
- (d) Sewer;
- (e) Well installation/maintenance;
- (f) Septic tank installation/maintenance;
- (g) Garbage/trash collection; and
- (h) Telephone service.

(4) If you do not have a utility cost separate from your rent or mortgage payment and do not receive low income energy assistance program (LIHEAP), you do not receive a utility allowance.

**WSR 17-07-102**  
**PROPOSED RULES**  
**OFFICE OF MINORITY AND**  
**WOMEN'S BUSINESS ENTERPRISES**

[Filed March 21, 2017, 9:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-03-048.

Title of Rule and Other Identifying Information: The agency is proposing to amend WAC 326-20-048 Presumption of disadvantage, 326-20-160 Burden of proof, 326-20-170 Decision, 326-20-185 Recertification, 326-20-190 Directory of certified businesses and 326-20-220 Resubmission of applications; new WAC 326-20-049 Personal net worth; and repeal WAC 326-20-120 Submittal of forms.

Hearing Location(s): Capitol Court, 1110 Capitol Way South, Room 135, Olympia, WA 98501, on April 26, 2017, at 10:00 a.m.

Live webinar <https://global.gotowebinar.com/join/2349124566138983171/355712203>.

TO USE YOUR COMPUTER'S AUDIO: When the webinar begins, you will be connected to audio using your computer's microphone and speakers (VoIP). A headset is recommended or TO USE YOUR TELEPHONE FOR AUDIO: If you prefer to use your phone, you must select "Use Telephone" after joining the webinar and call in using United States: +1 (914) 614-3221, Access Code: 156-724-603, Audio PIN: Shown after joining the webinar.

Date of Intended Adoption: April 27, 2017.

Submit Written Comments to: Mark Kifowit, 1110 Capitol Way South, #150, Olympia, WA 98501, email [markk@omwbe.wa.gov](mailto:markk@omwbe.wa.gov), fax (360) 586-7079, by April 26, 2017.

Assistance for Persons with Disabilities: Contact Mark Kifowit by April 14, 2017, phone (360) 664-9764, email [markk@omwbe.wa.gov](mailto:markk@omwbe.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The office of minority and women's business enterprises (OMWBE) proposes the following changes to rules regarding certifying small minority-, woman-, and other socially and economically disadvantaged person-owned businesses. OMWBE has a state and federal certification program. The proposed rule changes affect the state program:

- Revise WAC 326-20-185 to eliminate the requirement that the original application and recertification forms are notarized. The notary requirement would be replaced by a signed declaration. The purpose of this proposed change is to save applicants time and money.
- The agency is proposing new WAC 326-20-049, to add the same personal net worth limit as federal certification, which is that the primary owner's personal net worth may not exceed \$1.32 million. The purpose of this requirement is to ensure the applicant is economically disadvantaged as required by state and federal law and rule. The form to verify an applicant's personal net worth would be a simplified version of the current federal form.
- Revise WAC 326-20-048 to update a socially and economically disadvantaged business enterprise applicants'

personal net worth limit from \$750,000 to \$1.32 million, to reflect an update in federal rule.

- Revise WAC 326-20-220 to require an applicant to wait twelve months before reapplying if an application for certification was denied, consistent with federal rule. This is to prevent businesses from restructuring ownership and control for the sole purpose of certification. This change would not prevent [a] person from reapplying earlier if they withdraw their application.
- Repeal WAC 326-20-120, which outlines where to submit an application for certification and contains an out-dated mailing address. The current address is on the application forms.
- Revise WAC 326-20-160 to clarify that an applicant has the burden of showing by a preponderance of the evidence that he or she is eligible for certification. The current rule says the applicant must show eligibility "to the satisfaction of the office."
- Revise WAC 326-20-170 to allow the agency to email certification decision letters.
- Revise WAC 326-20-190 to reflect that the agency's directory of certified businesses is now online.

Reasons Supporting Proposal: OMWBE is proposing these changes in order to:

- Eliminate unnecessary requirements in order to save small businesses time and money.
- Align the personal net worth limit for state certification with federal disadvantaged business enterprise certification.
- Clarify existing rules and make technical changes.

Statutory Authority for Adoption: RCW 39.19.030 and 39.19.120.

Statute Being Implemented: RCW 39.19.120 and 39.19.030.

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

Name of Proponent: OMWBE, governmental.

Name of Agency Personnel Responsible for Drafting: Mark Kifowit, 1110 Capitol Way South, #150, Olympia, WA 98501, (360) 664-9764; Implementation: Sarah Erdmann, 1110 Capitol Way South, #150, Olympia, WA 98501, (360) 664-9771; and Enforcement: Teresa Berntsen, 1110 Capitol Way South, #150, Olympia, WA 98501, (360) 664-9757.

No small business economic impact statement has been prepared under chapter 19.85 RCW. OMWBE asked a sampling of small businesses certified by the agency to estimate the cost of the proposed rule changes. This sampling indicated the proposed rules do not impose more than minor costs on a business.

A cost-benefit analysis is not required under RCW 34.05.328. The benefits outweigh the costs as the proposed rule change saves applicants time and money by eliminating notary fees and the amount of records submitted. This complies with Executive Order 16-01, mandating state agencies not to collect more information than necessary to perform duties. Finally, the rule does not impose more stringent performance requirements for businesses and are not significant rules as defined by RCW 34.05.328.

March 21, 2007 [2017]

Mark Kifowit

Assistant Director of Policy

AMENDATORY SECTION (Amending WSR 04-08-093, filed 4/6/04, effective 5/7/04)

**WAC 326-20-048 Presumption of disadvantage.** (1)

The office presumes that citizens of the United States or lawfully admitted permanent residents who are women, African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the program, are socially and economically disadvantaged individuals. Applicants are required to submit a signed (~~(notarized certification)~~) declaration that each disadvantaged owner is, in fact, socially and economically disadvantaged.

(2)(a) (~~The office requires each individual nonpresumptive socially and economically disadvantaged owner of a firm applying to participate as a SEDBE whose ownership and control are relied upon for SEDBE certification to submit a signed, notarized statement of personal net worth, with appropriate supporting documentation.~~

(b) ~~In determining net worth, the office excludes an individual's ownership interest in the applicant firm and the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm). A contingent liability does not reduce an individual's net worth.~~

(i)) Each owner of a firm applying for state certification must sign a declaration that he or she has a personal net worth that does not exceed 1.32 million dollars, per WAC 326-20-049.

(b) Rebuttal of economic disadvantage. If the statement of personal net worth that an individual submits under this section shows that the individual's personal net worth exceeds (~~seven hundred fifty thousand~~) 1.32 million dollars or shows that a person has been able to accumulate substantial wealth, the individual's economic disadvantage is rebutted, and the individual is not deemed to be economically disadvantaged. Such an individual is no longer eligible to participate in the program and cannot regain eligibility by making an individual showing of disadvantage. The office is not required to have a proceeding under this section in order to rebut the presumption of economic disadvantage in this case.

~~((ii) When an individual's social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of SEDBE eligibility under this section unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting a determination that the individual's personal net worth exceeds seven hundred fifty thousand dollars, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage.))~~

(3) Individual determinations of social and economic disadvantage. Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged may apply for SEDBE certification. The office



makes a case-by-case determination of whether each individual whose ownership and control are relied upon for SEDBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to the office, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds ~~((seven hundred fifty thousand))~~ 1.32 million dollars shall not be deemed to be economically disadvantaged. In making these determinations, the office uses the guidance found in 49 C.F.R. Part 26, Appendix E. The office requires that applicants provide sufficient information to permit determinations under the guidance of 49 C.F.R. Part 26, Appendix E.

#### NEW SECTION

**WAC 326-20-049 Personal net worth.** (1) Each individual owner of a firm applying for state certification, whose ownership and control are relied on for certification, must fill out a personal net worth statement and sign a declaration that his or her personal net worth does not exceed 1.32 million dollars. If any individual's personal net worth exceeds 1.32 million dollars, the individual's presumption of economic disadvantage is rebutted and the individual does not meet the criteria for certification.

(2) The office may require additional financial information where necessary to accurately determine an individual's personal net worth.

(3) In determining an individual's personal net worth, the office will use the following criteria:

(a) Exclude the individual's ownership interest in the applicant firm;

(b) Exclude the individual's equity in his or her primary residence. The equity is the market value of the residence less any mortgages and home equity loan balances;

(c) Not use a contingent liability to reduce the individual's net worth;

(d) With respect to assets held in vested pension plans, individual retirement accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, include only the present value of such assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time;

(e) Include any assets the individual has transferred within two years prior to the application or renewal to:

(i) An immediate family member;

(ii) A trust where the beneficiary is an immediate family member; or

(iii) The applicant firm for less than fair market value.

(f) The assets described in (e) of this subsection will not be counted toward an individual's personal net worth if:

(i) The applicant demonstrates that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support; or

(ii) The transfer is consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(g) For the purposes of this section, "immediate family member" means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under state law.

(4) If an individual's personal net worth does not exceed 1.32 million dollars as described in this section, the office may rebut an individual's presumption of economic disadvantage if the statement of personal net worth and supporting documentation demonstrates that the individual is able to accumulate substantial wealth. In making this determination, the office may consider factors that include, but are not limited to:

(a) Whether the average adjusted gross income of the owner over the most recent three year period exceeds three hundred fifty thousand dollars;

(b) Whether the income was unusual and not likely to occur in the future;

(c) Whether the earnings were offset by losses;

(d) Whether the income was reinvested in the firm or used to pay taxes arising in the normal course of operations by the firm;

(e) Other evidence that income is not indicative of lack of economic disadvantage; and

(f) Whether the total fair market value of the owner's assets exceed six million dollars.

AMENDATORY SECTION (Amending WSR 04-08-093, filed 4/6/04, effective 5/7/04)

**WAC 326-20-160 Burden of proof.** The applicant ~~((shall have))~~ has the burden of proving ~~((to the satisfaction of the office))~~ by a preponderance of the evidence that ~~((it))~~ the applicant is eligible for certification or ~~((recertification))~~ renewal of certification.

AMENDATORY SECTION (Amending WSR 92-11-007, filed 5/11/92, effective 6/11/92)

**WAC 326-20-170 Decision.** The office shall notify the applicant business ~~((by mail))~~ of its decision to grant or deny certification promptly after the decision has been made. The decision shall indicate whether the certification is for the state program, a federal program or both. Where the office has denied the application, the decision shall set forth the bases for denial. Where the office has denied certification because the business did not meet one or more of the eligibility criteria, this shall not preclude the office from later denying the application on additional bases after further review.

AMENDATORY SECTION (Amending WSR 92-11-007, filed 5/11/92, effective 6/11/92)

**WAC 326-20-185 ~~((Recertification.))~~ Renewal.** ~~((The office may require any certified business to submit annual notarized statements regarding changes in the information provided during the initial certification process.))~~ (1) State certification is valid for three years, unless:

(a) The office decertifies the firm; or

(b) The firm goes out of business or has a material change in ownership, which is considered more than a ten percent change in ownership.

(2) If the applicant submits a declaration of continued eligibility as outlined in subsection (5) of this section, the certification will remain valid during the time the office processes the affidavit and until the office notifies the firm of its decision.

(3) The office will generally renew the certification as long as the business continues to meet the eligibility criteria; the business provides evidence of some level of activity e.g., gross receipts or evidence of continuing efforts to promote the business; and there have been no determinations that the business has violated chapter 39.19 RCW or its implementing rules in Title 326 WAC.

(4) Debarment of a business by the state or one or more federal agencies or local government jurisdictions may be grounds for nonrenewal of ~~((decertification))~~ certification.

(5) Each certified business must submit a ~~((statement of present status))~~ declaration of continued eligibility prior to ~~((expiration))~~ the date of its three-year certification. The ~~((statement))~~ declaration form will be provided to the certified business at least sixty days before ~~((expiration))~~ the date of its three-year certification. Failure to return the completed form within thirty days may lead to ~~((decertification by expiration))~~ nonrenewal of certification.

(a) The office may ask for additional information or documentation on a case-by-case basis.

(b) For the first renewal after the enactment of this subsection, each eligible owner must submit a personal financial statement as outlined in WAC 326-20-049.

AMENDATORY SECTION (Amending WSR 92-11-007, filed 5/11/92, effective 6/11/92)

**WAC 326-20-190 Directory of certified businesses.**

~~((The office will maintain a directory of certified businesses as follows:~~

~~((1))~~ The office will maintain a directory of businesses certified by the office for state projects and for federally funded projects.

~~((2))~~ ~~The office will update and compile the directory into a form suitable for distribution annually and may issue supplements on a more frequent basis.~~

~~((3))~~ ~~The directory will be available for purchase from the office at a reasonable cost. One copy will be made available to each state agency and educational institution at no charge. Copies will be provided to the state library.~~

~~((4))~~ ~~Information concerning the status of a business may be obtained by contacting the office during designated working hours.)~~

AMENDATORY SECTION (Amending WSR 92-11-007, filed 5/11/92, effective 6/11/92)

**WAC 326-20-220 Resubmission of applications.** (1) A business which withdraws its application ~~((is denied certification, or has been decertified,))~~ and subsequently reapplies for certification within a year may be required to submit a new application ~~((or to submit))~~ and additional documenta-

~~tion ((if there has been a substantial change in ownership, control, or organization of the business. However, no))~~ at the discretion of the office. A business may not file more than two applications in any calendar year.

(2) A business which is denied certification, or has been decertified, will be required to submit a new application and may be asked to submit additional documentation. The office may waive the reapplication requirement for good cause.

(3) An applicant must wait one calendar year to reapply if denied certification.

(4) A business which makes a change in ownership, control, or organization of the business after denial or decertification is not entitled to appeal the denial or decertification on the basis of that change.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 326-20-120 Submittal of forms.

**WSR 17-07-104**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed March 21, 2017, 10:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-23-096.

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

Hearing Location(s): Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Room S117, Tumwater, WA 98501, on May 15, 2017, at 9:00 a.m.

Date of Intended Adoption: August 1, 2017.

Submit Written Comments to: Tari Enos, P.O. Box 44620, Olympia, WA 98504-4620, email tari.enos@lni.wa.gov, fax (360) 902-5619, by 5:00 p.m. on May 22, 2017.

Assistance for Persons with Disabilities: Contact Tari Enos by May 1, 2017, at (360) 902-5541.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the logging safety standards of chapter 296-54 WAC, Safety standards—Logging operations, per multiple petitions that were received from the Washington Contract Loggers Association (WCLA) in 2010 and 2014.

L&I started rule making in response to the petitions. However, in 2012, L&I put their rule-making efforts on hold to launch the logger safety initiative (LSI). The WCLA petitioned L&I again in 2014 to reopen rule-making efforts following the successful launch of the LSI program.

Also, references, formatting and minor housekeeping changes may be proposed throughout the chapter specified above.

**NEW SECTIONS:** WAC 296-54-520 Chain shot awareness and prevention, 296-54-52001 Chain shot awareness and pre-

vention training, 296-54-52003 Cutting system inspection, 296-54-52005 Cutting system maintenance, 296-54-52007 Cutting system operation, and 296-54-99015 Appendix 6— Sample chain shot training program.

**AMENDED SECTIONS:**

**WAC 296-54-503 through 296-54-707.**

- Change "the employer" to "You" or "You must" where applicable.
- Change bullets to letters or numbers where applicable.
- Change numbering and lettering where applicable.

**WAC 296-54-501 Scope and application.**

- Add clarifying language to first sentence to read: "This chapter establishes safety practices for all types of logging operations, log road construction and other similar activities."
- Removed "forest activities using logging machinery and/or power saws regardless of the end use of the wood."

**WAC 296-54-503 Variance.**

- Update zip code and P.O. Box number in address.

**WAC 296-54-505 Definitions.**

- Delete all dashes from definitions and replace with periods.
- Add definition of "chain shot," "chain shot danger zone or shot cone zone," and "spurious response attenuation."
- Remove the following definitions: "Dapped," "dog line," "mainline train," "siwash," "speeder," "squirrel," and "squirrel tree."

**WAC 296-54-507 Employer's responsibilities.**

- Remove "logging" from subsections (2) and (3).

**WAC 296-54-511 Personal protective equipment (PPE).**

- Remove the word "design" from subsection (3).
- Remove "All safety belts and attachments must meet the requirements of section 3 of ANSI A10.14-1975" from subsection (3).
- Add new note to bottom of the section that reads: "The employer is not required to provide logging boots for employees. The cost of logging boots may be borne by employees. The employer must ensure, however, that logging boots as well as all PPE provided by the employer, are worn by employees and are in serviceable condition and meet the requirements of this subsection."

**WAC 296-54-51110 Head protection.**

- Add clarifying language in opening paragraph of section to read: "You must provide, at no cost to the employee, and ensure that all employees wear a hard hat whenever there is a potential exposure to danger of flying or falling objects, unless the employees are protected by FOPs, cabs, or canopies meeting the requirements of this chapter."

- Add clarifying language of subsection (1) to read: "Head protection (hard hats)["] must comply with any of the following consensus standards:

- (a) ANSI Z89.1-2009, "American National Standard for Industrial Head Protection;"
- (b) ANSI Z89.1-2003, "American National Standard for Industrial Head Protection;" or
- (c) ANSI Z89.1-1997, "American National Standard for Personnel Protection - Protective Headwear for Industrial Workers - Requirements."

- Add new note to read: "Note: You may use protective helmets that do not meet these ANSI standards if you can demonstrate that they are equally effective as those constructed in accordance with the above ANSIs."

- Remove original language of subsection (2), - language of previous subsection (3) is now (2).

**WAC 296-54-51120 Eye and face protection.**

- Add new note to read: "Mesh type screen goggles or face shields, which conform to ANSI Z87.1, may be used while operating a chain saw or during chipping operations."

**WAC 296-54-51140 Hand protection.**

- Add "or other rough materials" to subsection (1) - it was in previous versions of the rule and it was requested to put it back in the language.

**WAC 296-54-51160 Leg protection.**

- Add clarifying language in first sentence of subsection (1) to read: "You must provide, at no cost to the employee, and ensure that each employee who operates a chain saw wears leg protection meeting the requirements of ASTM F1897 "American Society for Testing and Materials Standard Specification for Leg Protection for Chain Saw Users.""

**WAC 296-54-51170 Foot protection.**

- Remove "logging" from subsection (1).

**WAC 296-54-51190 Highly visible clothing.**

- Add clarifying language in subsection (1) to read: "Employees working on landings or in log sorting yards on or from the ground must wear at least one piece of highly visible equipment, whether it be their hard hat ..."

**WAC 296-54-513 Arrangement of work areas and emergency contact.**

- Add "logging" to subsections (8) and (9), so both subsections start with "Each logging worksite."
- Remove "or UMS grid system coordinates" from subsection (9)(a).

**WAC 296-54-515 Accident prevention program.**

- Replace "logging" with "workplace or" in subsection (1).

**WAC 296-54-51510 Safety and health meetings.**

- Add clarifying language in subsection (1) to read: "You must hold safety and health meetings at least monthly."

- Remove (a) and (b) from subsection (1).
- Add new language to subsection (2): "A safety and health meeting must be held each time you move logging or timber felling operations to a new jobsite."
- Move Note from bottom of section to just below subsection (2).

**WAC 296-54-51520 First-aid training.**

- Add clarifying language in subsection (1) to read: "At logging worksites, each employee, including supervisors, must hold a valid certificate of first-aid and CPR training. New employees not holding a valid certificate of training must be trained within six months of being hired and they must be working on a crew where at least one person holding a valid certificate of first-aid and CPR training is present at all times."
- Add clarifying language in subsection (2) to read: "At road construction and maintenance worksites, whenever two or more employees are present, a person or persons holding a valid certificate of first-aid and CPR training must be present at all times."

**WAC 296-54-51530 First-aid kits.**

- Add clarifying language in subsection (1) to read: "You must provide first-aid kits at all worksites."
- Remove (a), (b), (c) and (d) from subsection (1).
- Add clarifying language in subsection (2) to read: "Worksite first-aid kits must contain the following minimum supplies at all times:"
- Add clarifying language (o) in subsection (2) to read: "One stretcher or equivalent weather proof litter at any three or more person worksite, and at all logging sites."
- Add letters (a) through (g) to supply list in subsection (3).
- Remove "speeders" from subsection (3).

**WAC 296-54-517 Lockout/tagout procedures.**

- Remove "logging" from subsections (1), (3)(b) and (5).
- Remove "release from lockout/tagout" from subsection (4).
- Remove "energy sources" from subsection (7).

**WAC 296-54-521 Motor vehicles.**

- Add "s" to "provision" and "entrance" in subsection (3).

**WAC 296-54-523 Inspection and repair of equipment and vehicles.**

- Remove "defective equipment" from beginning of section and add the word "defective" to subsection (1).

**WAC 296-54-531 Truck roads.**

- Add clarifying language in subsection (3) to read: "For all portions of roads under your direct control, you must ensure that:"

**WAC 296-54-537 Chain saws.**

- Add clarifying language in subsection (15) to read: "A chain saw must not be used to cut directly overhead in a manner where the operator could lose control of the saw,

or that would cause limbs, chunks of bark or pieces of wood to fall on the operator."

**WAC 296-54-539 Falling and bucking—General.**

- Add clarifying language in subsection (11) to read: "One worker must not fall a tree or danger tree when the assistance of another worker is necessary to minimize the risk of injury caused by overhead hazards, loose bark, or interlocked limbs, conditions of the tree, terrain or cutting conditions."
- Add new subsection (12) that reads: "When manual falling or tree jacking, trees must not be felled directly uphill when the probability of the tree sliding back past the stump is likely."

**WAC 296-54-53910 Falling and bucking—Falling.**

- Add clarifying language in subsection (4) to read: "Before falling trees, cutters must:
  - (a) Ensure that all personnel are out of reach of the tree; and
  - (b) Ensure that all personnel are in the clear of logs, fallen trees, snags, or other trees that may be struck by the falling tree."
- Remove exception from in between subsections (4) and (5).
- Add new Figure 2 image that includes "Open Face Undercut."
- Add new language in (C) under Figure 2 to read: "Open Face Undercut. Both cuts are made with the saw. The top and bottom face cuts generally form a 90 degree angle when completed. Works best on small diameter trees."

**WAC 296-54-53930 Falling and bucking—Danger trees.**

- Remove "must" and replace it with "should" in subsection (3).

**WAC 296-54-53940 Falling and bucking—Springboards and tree jacking.**

- Add new subsection (10): "Trees must not be felled directly uphill when the probability of the tree sliding past the stump is likely."

**WAC 296-54-541 Tree pulling.**

- Remove "Siwashing" from subsection (6) and update to: "Using a physical object such as a stump or tree in lieu of a block, in order to change tree pulling lead, is prohibited."

**WAC 296-54-543 Mechanized falling.**

- Replace "shall" with "will" in subsection (3).

**WAC 296-54-545 Climbing equipment and passline.**

- Add clarifying language in subsection (2)(c) to read: "A climbing rope (lanyard) made of a high-quality steel safety chain of 3/16-inch size or larger or a wire core rope."

**WAC 296-54-54730 Rigging—Shackles.**

- Replace "be a maximum of" with "not be more than" in subsection (5).
- Add clarifying language in subsection (6): "For example: 1-inch Extra Improved Plow Steel (EIPS) line requires a 1 1/8-inch shackle, 1-inch swaged line require 1 1/4 inch shackle."

**WAC 296-54-54740 Rigging—Straps.**

- Add new subsection (2): "Straps/chokers must be equivalently sized for the line they support, e.g., Extra Improved Plow Steel (EIPS) line requires EIPS straps or equivalent strength material, and swaged lines require swaged straps or equivalent strength material."

**WAC 296-54-54750 Rigging—Blocks.**

- Move "and" from after subsection (5)(b) to after (5)(a).
- Change subsection (5)(c) to subsection (6).

**WAC 296-54-54760 Rigging—Hanging blocks.**

- Add clarifying language in subsection (2)(a) to read: "Hanging the block in both eyes or Ds of the straps (threading eye through of wire rope straps is prohibited)."

**WAC 296-54-557 Wire rope.**

- Remove subsection (2)(f) and reletter rest of section.
- Add new exception above subsection (3) that reads: "EXCEPTION: Out-of-service requirements do not apply to chokers, grapple opening lines, tag lines, cat and skidder winch lines, and drop lines that are not used to move the carriage. However, an authorized, qualified person must thoroughly inspect these cables adhering to the requirements of WAC 296-54-54710 (1) and (3)."

**WAC 296-54-55720 Wire rope—Splicing.**

- Add new note at the end of the section that reads: "Note: Unraveling 40 lays of cable on each side will give the required length of splice regardless of the diameter."

**WAC 296-54-55730 Wire rope—Attaching end fastenings.**

- Add new subsection (5): "Wedge-type quick ferrules, such as "quick nub" must not be used as end fittings for guylines and skylines."

**WAC 296-54-561 Guylines.**

- Remove letters (a) and (b) from subsection (5) and combine language.
- Add exception between subsections (9) and (10) that reads: "Exception: It's acceptable to use the base of a tree/stump or ground conditions to change the lead of a guyline for the purpose of keeping the guyline properly positioned."

**WAC 296-54-563 Guying tail/lift trees.**

- Change "below" to "above" in subsection (3)(b) which is describing what picture to refer to.

**WAC 296-54-567 Rigging skylines.**

- Add "and hung in a manner to prevent excessive bight or fouling when tightened" to end of subsection (6)(b).

**WAC 296-54-569 Anchoring.**

- Add clarifying language in subsection (7) to read: "When a standing tree is used as an anchor for guylines of portable spars, wood spars or towers:
  - (a) The tree must be properly tied back if it is within reach of a work area, landing area or haul road;
  - (b) The tree must be carefully chosen for strength;
  - (c) The line or strap must be attached to the base of the tree; and
  - (d) The tree must be adequately notched."
- Add note below subsection (7) to read: "Note: The depth of the notch should not be any deeper than what is necessary to keep the line/strap from sliding up the tree."

**WAC 296-54-573 Logging machines—General.**

- Add new subsection (10): "Horns and travel alarms, which are part of the machine's original equipment, must be maintained in serviceable condition." Renumber the rest of the section.

**WAC 296-54-57350 Logging machines—Tractors and skidders.**

- Update "choked" to "choked" in subsection (5)(c).

**WAC 296-54-575 Landing area.**

- Remove "Landings must" from beginning subsection (1)(d).
- Remove "when" from beginning of subsection (2) and start sentence with "During."

**WAC 296-54-577 Yarding, skidding, landing.**

- Remove subsection (14) and renumber the rest of the section.

**WAC 296-54-583 Loading logs.**

- Change "Employees must not be" to "No one is" in subsection (2).

**WAC 296-54-58950 Log trucks—Wrappers and binders.**

- Add new language to subsection (1)(d)(ii) that reads: "When any log is over seventeen feet in length, the load must be secured by not less than three properly spaced wrappers. Log(s) loaded on top or in outside saddles of a load must not be transported unless secured by at least two wrapper chains or cables, one of which must be placed near each end of such log."
- Add new language to subsection (10) that reads: "Wrappers must not be thrown over the load until personnel are in the clear."

**WAC 296-54-601 Signals and signal systems.**

- Add clarifying language in subsection (6) to read: "A copy of the standard hand and whistle signals must be available at the worksite."

- Add clarifying language in subsection (17) to read: "When the normal rigging crew configuration consists of two or more persons at the point where chokers are being set, at least two members of the rigging crew must carry transmitters for each signal and control system being operated where chokers are being set. Only one transmitter for each signal and control system is required if:"

**WAC 296-54-604 Radio signaling permits.**

- Update zip code and P.O. Box in address.

**WAC 296-54-605 Radio systems used for voice communication, activation of audible signals, or control of equipment.**

- Replace Figure 38 with a new image.

**WAC 296-54-607 Radio signal systems—Specifications and test procedures.**

- Remove definition of "Spurious response attenuation" from subsection (4) and moved it to the definitions section.

**WAC 296-54-701 Wood spar trees.**

- Add clarifying language to first part of subsection (2): "The top of the tree must not extend more than ..."

**WAC 296-54-99003 Appendix 2—Sample minimum lockout/tagout procedure.**

- Remove "logging" three times from the opening paragraphs of the section.
- Add numbers to a list at the beginning of the section and under the new heading.
- Add new heading that says: "Sample lockout/tagout procedures."

**REPEALED SECTIONS:** WAC 296-54-595 Transporting crews, 296-54-59510 Speeders used to transport crews, 296-54-59520 Trailers used to transport crews, 296-54-597 Railroads, 296-54-59710 Railroad construction and maintenance, 296-54-59720 Railroad operations, and 296-54-59730 Railroad maintenance—Loading or unloading.

Reasons Supporting Proposal: To ensure the logging rules are up-to-date with the technology of the industry to keep workers and employers safe while on the job.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 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: L&I, governmental.

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

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for this rule making pursuant to RCW 19.85.030 (1)(a) as the department determined the rule will not result in or impose more than minor costs.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Tari Enos, P.O. Box 44620, Olympia, WA 98504, phone (360) 902-5541, fax (360) 902-5619, email tari.enos@lni.wa.gov.

March 21, 2017

Joel Sacks  
Director

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

**WAC 296-54-501 Scope and application.** This chapter establishes safety practices for all types of logging operations, log road construction and other ~~((forest activities using logging machinery and/or power saws regardless of the end use of the wood))~~ similar activities. This chapter does not apply to log handling at sawmills, plywood mills, pulp mills, or other manufacturing operations governed by specific safety standards. This chapter provides minimum safety requirements for the logging industry. The logging industry is also covered by the general safety standards, chapter 296-24 WAC; occupational health standards, chapter 296-62 WAC; the safety and health core rules, chapter 296-800 WAC; or others that may apply. Chapter 296-52 WAC, which covers the possession, handling and use of explosives, applies when explosives are used in logging operations.

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

**WAC 296-54-503 Variance.** If ~~((an employer))~~ you find~~((s))~~ it impractical to comply with specific requirements of this chapter, the department may permit a variation from the requirements. However, ~~((the employer))~~ you must still provide equal protection by substitute means. To request a variance, write to:

WISHA Services Division—Variance Request  
Department of Labor & Industries  
P.O. Box ~~((44648))~~ 44650  
Olympia, WA ~~((98504-4648))~~ 98504-4650

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

**WAC 296-54-505 Definitions. A-frame~~((—))~~.** A structure made of two independent columns fastened together at the top and separated by a reasonable width at the bottom to stabilize the unit from tipping sideways.

**An operation~~((—))~~.** Any place where logging or log related activities are taking place.

**Approved~~((—))~~.** Approved by the department of labor and industries.

**Arch~~((—))~~.** Any device attached to the back of a vehicle and used for raising one end of logs to facilitate movement.

**Authorized person~~((—))~~.** A person approved or assigned by the employer to perform a specific type of duty(s) or to be at a specific location at a certain time(s).

**Backcut (felling cut)~~((—))~~.** The cut in a felling operation made on the opposite side from the undercut.

**Backline**((--))<sub>2</sub> The portion of the haulback that runs between the spar/spar tree and the corner block.

**Ballistic nylon**((--))<sub>2</sub> A nylon fabric of high tensile properties designed to provide protection from lacerations.

**Barrier**((--))<sub>2</sub> A fence, wall or railing to prevent passage or approach.

**Base of tree**((--))<sub>2</sub> That portion of a natural tree not more than three feet above ground level.

**Bight of the line**((--))<sub>2</sub> A hazardous zone created by running lines under tension. Any section of a line between the ends.

**Binder**((--))<sub>2</sub> A hinged lever assembly for connecting the ends of a wrapper to tighten the wrapper around the load of logs or materials.

**Boomboat**((--))<sub>2</sub> Any boat used to push or pull logs, booms, bundles, or bags, in booming ground operations.

**Boomscooter**((--))<sub>2</sub> A small boat, usually less than four-feet in length, equipped with an outboard motor, having directional pushing capabilities of 360 degrees.

**Brailing**((--))<sub>2</sub> When tiers of logs, poles, or piles are fastened together with a type of dogline and the ends of the side members are then fastened together for towing.

**Brow log**((--))<sub>2</sub> A log or a suitable substitute placed parallel to any roadway at a landing or dump to protect the carrier and facilitate the safe loading or unloading of logs, timber products, or materials.

**Buck**((--))<sub>2</sub> Means the process of severing a tree into sections (logs or bolts).

**Butt**((--))<sub>2</sub> The bottom of the felled part of a tree.

**Butt welding**((--))<sub>2</sub> The practice of welding something end to end.

**Cable tree thinning**((--))<sub>2</sub> The selective thinning of a timber stand using mobile yarding equipment specifically designed or adapted for the purpose. Cable tree thinning includes skyline, slackline, or modified slackline, overhead cable systems.

**Cable yarding**((--))<sub>2</sub> The movement of felled trees or logs from the area where they are felled to the landing on a system composed of a cable suspended from spars and/or towers. The trees or logs may be either dragged across the ground on the cable or carried while suspended from the cable.

**Chain shot.** When the saw chain breaks, when using a mechanical timber harvester or processor, fragments or pieces are projected with tremendous force, and can travel a distance greater than 250 feet.

**Chain shot danger zone or shot cone zone.** The area included within 15 degrees on either side of the guide bar and up to a distance of at least 250 feet.

**Chock**((--))<sub>2</sub> A block, often wedge shaped, which is used to prevent movement; e.g., a log from rolling, a wheel from turning.

**Choker**((--))<sub>2</sub> A length of wire rope with attachments for encircling the end of a log to be yarded.

**Chunking**((--))<sub>2</sub> To clear nonusable material from a specified area.

**Cold deck**((--))<sub>2</sub> A pile of yarded logs left for future removal.

**Competent person**((--))<sub>2</sub> One who is capable of identifying hazards in the surroundings or working conditions which are unsanitary, hazardous or dangerous.

**Corner block**((--))<sub>2</sub> The first block the haulback passes through on its way to the tail block.

**Crotch line**((--))<sub>2</sub> Two short lines attached to the same ring or shackle, used for loading or unloading.

**Cutter**((--))<sub>2</sub> An employee whose primary job is to fall, buck, or limb trees before they are moved to the landing area.

**Danger trees**((--))<sub>2</sub> Any tree of any height, dead or alive, that presents a hazard to workers because of rot, root, stem or limb damage, lean, or any other observable condition created by natural process or man-made activity.

~~((Dapped — A notch in a timber for receiving part of another timber.))~~

**DBH**((--))<sub>2</sub> Diameter at breast height.

**Deadman**((--))<sub>2</sub> Buried log or other object used as an anchor.

**Debark**((--))<sub>2</sub> To remove bark from trees or logs. Debark generally denotes mechanical means as opposed to manual peeling.

**Deck**((--))<sub>2</sub> A stack of trees or logs.

**Designated person**((--))<sub>2</sub> An employee who has the requisite knowledge, training, and experience to perform specific duties.

**Directional falling**((--))<sub>2</sub> A mechanical means to control the direction of falling timber.

~~((Dog line — Type of line used to fasten logs or timber products together by the use of dogs.))~~

**Domino felling**((--))<sub>2</sub> The partial cutting of multiple trees which are left standing and then pushed over with a pusher tree.

**Donkey**((--))<sub>2</sub> Any machine with a series of drums used to yard logs.

**Double ended logs**((--))<sub>2</sub> Two logs end to end on the same lay.

**Drop zone**((--))<sub>2</sub> The area where the helicopter delivers logs from the logging site.

**Droplines**((--))<sub>2</sub> A short line attached to the carriage or carriage block which is used as an extension to the main line.

**Drum**((--))<sub>2</sub> A mechanical device on which line is spooled or unspooled.

**Dry land storage**((--))<sub>2</sub> Decks of logs stored for future removal or use.

**Dutchman**((--))<sub>2</sub>

((♣)) (a) A block used to change direction of line lead (sideblocking).

((♣)) (b) A method used to pull a tree against its lean by leaving a section of the undercut on one corner of the face. The portion left consists of a single saw kerf in one side of the face, with the face completely removed on the opposite side of the face cut. A single saw kerf must never extend completely across the stump.

**Experienced person**((--))<sub>2</sub> A person who has been trained and has participated in the subject process for a period of time long enough to thoroughly acquaint the person with all facets of the process.

**F.O.P.S.**((--)) Falling object protective structure.

**Fair lead**((—))<sub>2</sub> Sheaves, rolls, or a combination thereof arranged to receive a line coming from any direction for proper line spooling on to a drum.

**Fell (fall)**((—))<sub>2</sub> To cut down trees.

**Feller (faller)**((—))<sub>2</sub> An employee who fells trees.

**Front end loader**((—))<sub>2</sub> A mobile machine mounted on a wheeled or tracked chassis, equipped with a grapple, tusk, bucket, or fork-lift device, and employed in the loading, unloading, stacking, or sorting of logs or materials.

**Grounded**((—))<sub>2</sub> The placement of a component of a machine on the ground or on a device where it is firmly supported. Grounded may also relate to the placement of a tree on the ground or a method to dissipate static or electrical charges.

**Guarded**((—))<sub>2</sub> Covered, shielded, fenced, enclosed, or otherwise protected by means of suitable enclosures, covers, casings, shields, troughs, railings, screens, mats, or platforms, or by location, to prevent injury.

**Guard rail**((—))<sub>2</sub> A railing to restrain a person.

**Guyline**((—))<sub>2</sub> A line used to support or stabilize a spar, tail/lift tree, intermediate support tree or equipment. A guyline is considered a standing line.

**Gypsy drum**((—))<sub>2</sub> A mechanical device wherein the line is not attached to the drum and is manually spooled to control the line movement on and off the drum.

**Haulback**((—))<sub>2</sub> A line used to pull the buttrigging and mainline to the logs to be yarded.

**Haulback block**((—))<sub>2</sub> Any block the haulback line passes through including the corner block and tailblock.

**Hay rack**((—))<sub>2</sub>

((★) (a) A type of loading boom where two tongs are used and logs are suspended.

((★) (b) A transporting vehicle with multiple sets of bunks attached to a rigid frame usually used for hauling logs.

**Haywire**((—))<sub>2</sub> See strawline.

**Hazardous falling area**((—))<sub>2</sub> The area within a circle centered on the tree being felled and having a radius not less than twice the height of that tree.

**Head tree**((—))<sub>2</sub> The tree where yarding and/or loading takes place. (See spar)

**Heel boom**((—))<sub>2</sub> A type of loading boom where one tong is used and one end of the log is pulled up against the boom.

**High lead**((—))<sub>2</sub> A system of logging wherein the main line is threaded through the main line block, which is attached near the top of the spar, to obtain a lift of the logs being yarded.

**High visibility colors**((—))<sub>2</sub> White, bright, or fluorescent colors that stand out from the surrounding background color so they are easily seen.

**Hobo log and/or hitchhiker**((—))<sub>2</sub> A free or unattached log that is picked up by a turn and is transported with the turn.

**Hooktender**((—))<sub>2</sub> The worker that supervises the method of moving the logs from the woods to the landing.

**Hot deck**((—))<sub>2</sub> A landing where logs are being moved.

**Hydraulic jack**((—))<sub>2</sub> A mechanical device, powered by internal pressure, used to control the direction in which a tree is to be felled.

**In the clear**((—))<sub>2</sub> A position within the work area where the probability of hazardous contact with falling trees, mov-

ing logs, rootwads, chunks, material, rigging and equipment is minimized by distance from the hazards and/or use of physical barriers, such as stumps, trees, terrain or other objects providing protection.

Examples:

((★) (a) Back behind on the uphill side of the turn and out of reach of any upending logs.

((★) (b) Out of the bight.

((★) (c) In the logged off area.

((★) (d) In a position where movement will not be obstructed.

**Intermediate support system**((—))<sub>2</sub> A system for supporting a loaded skyline in a support jack by one of the two following methods:

((★) (a) Double tree support - The skyline is suspended on a single piece of wire rope supported by two trees so that the load is shared between the two trees.

((★) (b) Single tree support - The skyline is suspended on a single piece of wire rope, single-eyed choker or double-eyed strap supported by a single tree. The support tree may be vertical or leaning.

**Jackstrawed**((—))<sub>2</sub> Trees or logs piled in an unorderly manner.

**Jaggers**((—))<sub>2</sub> Any projecting broken wire in a strand of cable.

**Kerf**((—))<sub>2</sub> The part of timber products taken out by the saw teeth.

**Knob**((—))<sub>2</sub> A metal ferrule attached to the end of a line.

**Landing**((—))<sub>2</sub> Any place where logs are laid after being yarded, awaiting subsequent handling, loading, and hauling.

**Landing chute**((—))<sub>2</sub> The head of the skid trail or road where the logs are temporarily placed before handling, loading and hauling.

**Lay**((—))<sub>2</sub>

((★) (a) The straight-line distance it takes a strand of wire rope to make one complete spiral around the core of a rope.

((★) (b) The position of a log in a pile, on a load, or in the fell and bucked.

**Limbing**((—))<sub>2</sub> To cut branches off felled or standing trees.

**Loading boom**((—))<sub>2</sub> Any structure projecting from a pivot point to guide a log when lifted.

**Lodged tree (hung tree)**((—))<sub>2</sub> A tree leaning against another tree or object which prevents it from falling to the ground.

**Log**((—))<sub>2</sub> A tree segment suitable for subsequent processing into lumber, pulpwood, or other wood products, including, but not limited to, poles, piling, peeler blocks, sections and/or bolts.

**Log bronco**((—))<sub>2</sub> A sturdily built boat usually from twelve to twenty feet in length, used to push logs or bundles of logs in a generally forward direction in booming and rafting operations.

**Log dump**((—))<sub>2</sub> A place where logs are removed from transporting equipment. It may be either dry land or water, parbuckled over a brow log or removed by machine.

**Log stacker**((—))<sub>2</sub> A mobile machine mounted on a wheeled or tracked chassis, equipped with a frontally



mounted grapple, tusk, or forklift device, and employed in the loading, unloading, stacking, or sorting of logs.

**Logging machine**((-)). A machine used or intended for use to yard, move, or handle logs, trees, chunks, trailers, and related materials or equipment.

Note: A self-loading log truck is only considered a logging machine when in use for loading and unloading.

Note: A helicopter is not considered a logging machine.

**Logging operations**((-)). Operations associated with felling and/or moving trees, logs, veneer bolts, poles, pilings, and other forest products from the stump to the point of delivery. Such operations are such, but not limited to, marking, felling, bucking, limbing, debarking, chipping, yarding, loading, unloading, storing, and the transporting of machines, equipment and personnel from one site to another.

**Long sticks**((-)). An overlength log or tree length that creates a hazard by exceeding the safe perimeters of the landing.

**Machine**((-)). A piece of stationary or mobile equipment having a self-contained power plant, that is operated off-road and used for the movement of material. Machines include but are not limited to tractors, skidders, front-end loaders, scrapers, graders, bulldozers, rough terrain logging shovels, log stackers and mechanical felling devices, such as tree shears and feller-bunchers.

**Mainline**((-)). The line attached to the buttrigging used to pull logs to the landing.

**Mainline block**((-)). The block hung in the portable spar or tower through which the mainline passes.

~~((Mainline train — Any train that is made up for travel between the woods and log dump.))~~

**Matchcutting**((-)). The felling of trees without using an undercut.

**Mechanized falling**((-)). Falling of standing timber by a self-propelled mobile wheeled or tracked machine equipped with a shear or other powered cutting device.

**Mechanized feller**((-)). Any such machine as described in WAC 296-54-541 and 296-54-543, and includes feller/bunchers and similar machines performing multiple functions.

**Mechanized logging machine**((-)). A feller-buncher, single-grip harvester, processor, forwarder, clambunk, or log loader.

**Mobile log loader**((-)). A self-propelled log loading machine mounted on wheels or tracks, incorporating a boom and employed in the loading or unloading of logs by means of grapples or tongs.

**Mobile yarder**((-)). A logging machine mounted on wheels, tracks, or skids, incorporating a vertical or inclined spar, tower, or boom, employed in skyline, slackline, high lead or grapple overhead cable logging systems.

**Molle**((-)). A single strand of wire rope rolled into a circle with six wraps. A molle can be used as a temporary method of connecting the eye splices of two lines. A molle is used in most pin shackles in place of a cotter key.

**Must**((-)). The same as "shall" and is mandatory.

**New job site**((-)). A location of operations when the loading station and/or the yarder or cutting operations are

moved to a new area outside of the current sale or contracted unit.

**Pass line**((-)). A small line threaded through a block at the top of the spar to assist the high climber.

**Permissible (as applied to any device, equipment or appliance)**((-)). Such device, equipment, or appliance has the formal approval of the United States Bureau of Mines, American Standards Association, or National Board of Fire Underwriters.

**Portable spar or tower**((-)). A movable engineered structure designed to be used in a manner similar to which a wood spar tree would be used.

**Qualified person**((-)). A person, who by possession of a recognized degree, certificate, professional standing, or by extensive knowledge, training, and experience, has successfully demonstrated ability to solve or resolve problems relating to the subject matter, the work, or the project.

**Rated capacity**((-)). The maximum load a system, vehicle, machine or piece of equipment was designed by the manufacturer to handle.

**Reach**((-)). A steel tube or wood timber or pole connected to the truck and inserted through a tunnel on the trailer. It steers the trailer when loaded and pulls the trailer when empty.

**Reload**((-)). An area where logs are dumped and reloaded or transferred as a unit to another mode of transportation.

**Rollway**((-)). Any place where logs are dumped and they roll or slide to their resting place.

**Root wad**((-)). The ball of a tree root and dirt that is pulled from the ground when a tree is uprooted.

**R.O.P.S.**((-)) Roll over protection structure.

**Rub tree**((-)). A tree used to guide a turn around an area.

**Running line/running rope**((-)). Any moving line directly involved with the yarding of logs.

**Safety factor**((-)). The ratio of breaking strength to a safe working strength or loading.

**Safety glass**((-)). A type of glass that will not shatter when broken.

**Sail block**((-)). A block hung inverted on the sail guy to hold the tong block in proper position.

**Scaler**((-)). The person who measures the diameter and length of the logs, determines specie and grade, and makes deductions for footage calculations.

**Serviceable condition**((-)). A state or ability of a tool, machine, vehicle or other device to operate as it was intended by the manufacturer to operate.

**Shall**((-)). A requirement that is mandatory.

**Shear log**((-)). A log placed in a strategic location to divert passage of objects.

**Shore skids**((-)). Any group of timbers spaced a short distance apart on which logs are rolled.

**Should**((-)). Means recommended.

**Signal person**((-)). The person designated to give signals to the machine operator.

~~((Siwash — To change the lead of a line with a physical object such as a stump or tree instead of a block.))~~

**Skidder**((-)). A machine or animal used to move logs or trees to a landing.

**Skidding**((—))<sub>2</sub> Movement of logs or trees on the surface of the ground to the place where they are to be loaded.

**Skidding line**((—))<sub>2</sub> The main haulage line from a carriage to which chokers are attached. Sometimes referred to a mainline.

**Skyline**((—))<sub>2</sub> The line suspended between two points on which a block or carriage travels.

**Slackline**((—))<sub>2</sub> A form of skyline where the skyline cable is spooled on a donkey drum and can be raised or lowered.

**Slack puller**((—))<sub>2</sub> Any weight or mechanical device used to increase the movement of a line when its own weight is inadequate.

**Slope (grade)**((—))<sub>2</sub> The increase or decrease in altitude over a horizontal distance expressed as a percentage. For example, change of altitude of 20 feet (6 m) over a horizontal distance of 100 feet (30 m) is expressed as a 20 percent slope.

**Snag**((—))<sub>2</sub> A dead standing tree or a portion thereof. (See Danger tree)

**Snorkel**((—))<sub>2</sub> A loading boom modified to extend its limitations for yarding.

**Spar/spar tree**((—))<sub>2</sub> A tree or device (rigged for high-lead, skyline or slackline yarding) used to yard logs by any method of logging.

~~((Speeder—A small self-powered vehicle that runs on a railroad track.))~~

**Spike**((—))<sub>2</sub> A long heavy nail similar to a railroad spike.

**Springboard**((—))<sub>2</sub> A board with an iron tip used by fallers to stand on while working above ground level.

**Spring pole**((—))<sub>2</sub> A tree, segment of a tree, limb, or sapling which is under stress or tension due to the pressure or weight of another object.

**Spurious response attenuation.** A measure of the receiver's ability to discriminate between a desired signal to which it is resonant and an undesired signal at any other frequency to which it is also responsive.

**Square lead**((—))<sub>2</sub> The angle of 90 degrees.

~~((Squirrel—A weight used to swing a boom when the power unit does not have enough drums to do it mechanically.))~~

~~Squirrel tree—A topped tree, guyed if necessary, near the spar tree in which the counter balance (squirrel) of a tree rigged boom is hung.))~~

**Standing line**((—))<sub>2</sub>

((\*) (a) Guyline.

((\*) (b) A nonoperating rope with end terminations to support a boom or mast.

**Stiff boom**((—))<sub>2</sub> Two or more boom sticks wrapped together on which boom persons walk or work.

**Strap**((—))<sub>2</sub> Any short piece of line with an eye or "D" in each end.

**Strap socket or D**((—))<sub>2</sub> A socket with a closed loop arranged to be attached to the end of a line by the molten zinc, or an equivalent method. It is used in place of a spliced eye.

**Strawline**((—))<sub>2</sub> A light cable used in rigging up, or in moving other cables or blocks. The smallest line on the yarder. (Mainline - Haulback line - Strawline.)

**Strip**((—))<sub>2</sub> A definite location of timber on which one or more cutting crews work.

**Swamping**((—))<sub>2</sub> The falling or cutting of brush around or along a specified place.

**Swede connection**((—))<sub>2</sub> A line configuration made by wrapping two choker lines in the same direction around a tree or log connecting the line knobs to opposite line bells.

**Swifter**((—))<sub>2</sub> A piece of equipment used to tie the side sticks of a log raft together to keep the raft from spreading.

**Swing cut**((—))<sub>2</sub> An intentional dutchman left on one corner of an undercut or a backcut in which the holding wood on one side is cut through in conjunction with an intentional dutchman to achieve a desired lay for the tree being fell.

**Tail block**((—))<sub>2</sub> A block used to guide the haulback line at the back corner of the yarding area.

**Tail hold**((—))<sub>2</sub> An anchor used for making fast any line or block.

**Tail/lift tree**((—))<sub>2</sub> The tree at the opposite end from the head tree on which the skyline or other type rigging is hung.

**Tie back**((—))<sub>2</sub> To use a twister(s) (or similar system/device) that has a breaking strength equal to fifty percent of the breaking strength of the mainline or skyline whichever is greater. To secure or support one anchor by securing it to a second anchor(s) such as wrapping one stump and choking another.

**Tie down**((—))<sub>2</sub> A chain, cable, steel strips or fiber webbing and binders attached to a truck, trailer or other conveyance as a means to secure loads and to prevent them from shifting or moving when they are being transported.

**Tight line**((—))<sub>2</sub> When either the mainline or haulback are held and power is exerted on the other or when power is exerted on both at the same time.

**Tong line block**((—))<sub>2</sub> The block hung in a boom through which the tong line operates.

**Tongue**((—))<sub>2</sub> A device used to pull and/or steer a trailer.

**Topping**((—))<sub>2</sub> Cutting off the top section of a standing tree.

**Tower**((—))<sub>2</sub> (See portable spar or tower).

**Tractor**((—))<sub>2</sub> A machine of wheel or track design used in logging.

**Tractor logging**((—))<sub>2</sub> The use of any wheeled or tracked vehicle in the skidding or yarding of logs.

**Transfer (as used in loading)**((—))<sub>2</sub> Changing of logs in a unit from one mode of transportation to another.

**Tree jack**((—))<sub>2</sub> A grooved saddle of wood or metal rollers contained within two steel plates, attached to a tree with a strap, used as a guide for skyline, sail guy, or similar static line. It is also formed to prevent a sharp bend in the line.

**Tree plates**((—))<sub>2</sub> Steel bars sometimes shaped as elongated J's, which are fastened near the top of a tree to hold guylines and prevent them from cutting into the tree when tightened. The hooks of the J are also used to prevent the mainline block strap from sliding down the tree.

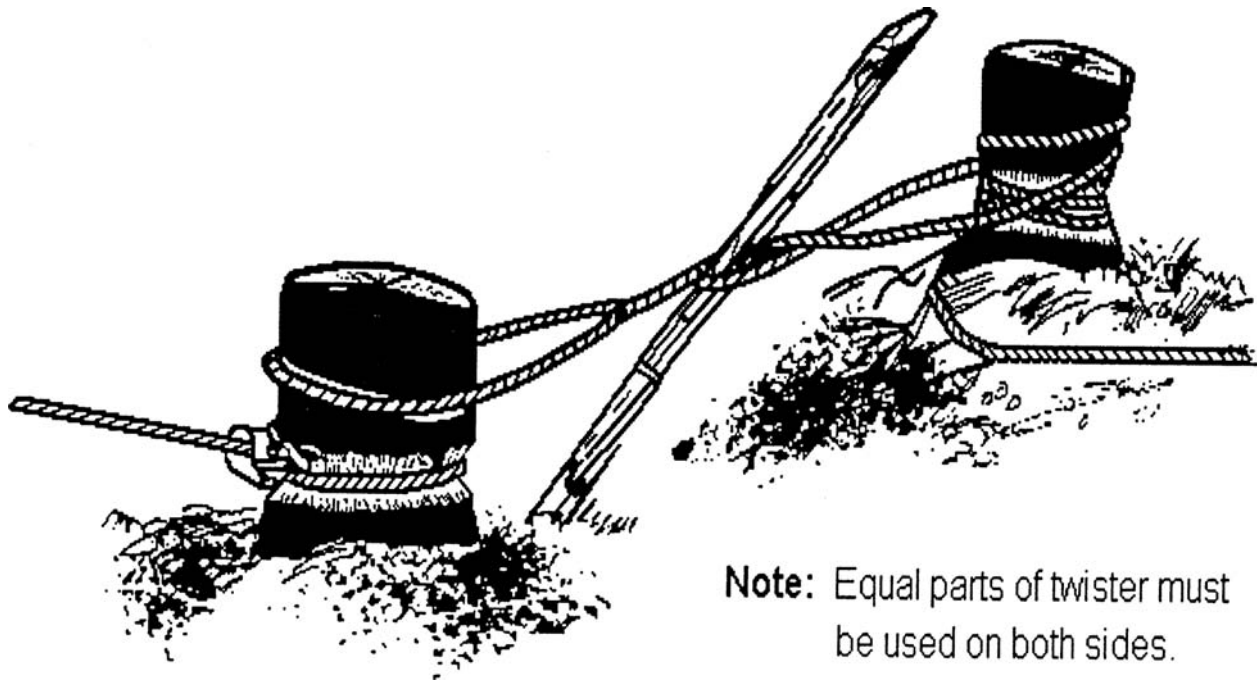
**Tree pulling**((—))<sub>2</sub> A method of falling trees in which the tree is pulled down with a line.

**Tug**((—))<sub>2</sub> A boat, usually over twenty feet in length, used primarily to pull barges, booms of logs, bags of debris, or log rafts.

**Turn**((—))<sub>2</sub> Any log or group of logs attached by some means to power and moved from a point of rest to a landing.

**Twister**((—))<sub>2</sub> A line (usually small diameter wire rope "haywire") that supports a tailhold stump, guyline stump, or tree that does not appear to be strong enough. This is done by connecting the tailhold to another stump or tree opposite by

wrapping the two with a line. This line is then tightened by placing a piece of large-diameter limb between the wrappings and twisting them together.



**Note:** Equal parts of twister must be used on both sides.

#### TWISTER ROPE

**Undercut**((—))<sub>2</sub> A notch cut in a tree to guide the direction of the tree fall and to prevent splitting or kickback.

**V-lead**((—))<sub>2</sub> A horizontal angle of less than ninety degrees formed by the projected lines of the mainline from the drum of the logging machine through the block or fairlead and the yarding log or turn.

**Vehicle/crew bus**((—))<sub>2</sub> A car, bus, truck, trailer or semi-trailer owned, leased, or rented by the employer that is used for transportation of employees or movement of material.

**WAC**((—))<sub>2</sub> Washington Administrative Code.

**Waistline**((—))<sub>2</sub> That portion of the haulback running between the corner block and the tail block.

**Winching**((—))<sub>2</sub> The winding of cable or rope onto a spool or drum.

**Within the stakes**((—))<sub>2</sub> When one-half the log diameter is below the stake top.

**Work areas**((—))<sub>2</sub> Any area frequented by employees in the performance of assigned or related duties.

**Wrapper**((—))<sub>2</sub> A cable assembly or chain used to contain a load of logs.

**Wrapper rack**((—))<sub>2</sub> Barrier used to protect a person while removing binders and wrappers from a loaded logging truck.

**Yarder (donkey)**((—))<sub>2</sub> A machine with a series of drums used to yard logs.

**Yarding**((—))<sub>2</sub> The movement of logs from the place they are felled to a landing.

**AMENDATORY SECTION** (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

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

- (1) Provide safety training for 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 hazard communication program as required by WAC 296-901-140. 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)) **You** 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 296-54-509 Employee's responsibility.** (1) Employees must coordinate and cooperate with ~~((the employer))~~ you and other employees in an attempt to eliminate accidents.

(2) Employees must be aware of and follow all safe practices that apply to their work.

(3) Employees should offer safety suggestions that may contribute to a safer work environment.

(4) Intoxicating beverages and narcotics must not be permitted or used by employees in or around the worksites. Employees under the influence of alcohol or narcotics must not be permitted on the worksite.

EXCEPTION: This rule does not apply to employees taking prescription drugs and/or narcotics as directed by a physician if the use does not endanger the employee or others.

(5) Employees must conduct themselves in a workman-like manner while on the worksite.

(6) Employees must make prompt report to their immediate supervisor of each industrial injury or occupational illness, regardless of the degree of severity.

AMENDATORY SECTION (Amending WSR 09-05-071, filed 2/17/09, effective 4/1/09)

**WAC 296-54-511 Personal protective equipment (PPE).** (1) Protective equipment, including personal protective equipment for eyes, face, head, hearing and extremities, protective clothing, respiratory devices and protective shields and barriers, must be used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact.

(2) Personal protective equipment, including any personal protective equipment provided by an employee, must be maintained in a serviceable condition.

(3) ~~((Design))~~ All personal protective equipment must be of safe design and construction for the work to be performed. ~~((All safety belts and attachments must meet the requirements of section 3 of ANSI A10.14-1975.))~~

(4) Personal protective equipment, including any personal protective equipment provided by an employee, must be inspected before initial use during each workshift. Defects or damage must be repaired or the unserviceable personal protective equipment must be replaced before work is commenced.

(5) Personal protective equipment required by this standard ~~((shall))~~ must be provided at no cost to the employee.

Note: The employer is not required to provide logging boots for employees. The cost of logging boots may be borne by employees. The employer must ensure, however, that logging boots as well as all PPE provided by the employer, are worn by employees and are in serviceable condition and meet the requirements in subsection (5) of this section.

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

**WAC 296-54-51110 Head protection.** ~~((The employer))~~ You must provide, at no cost to the employee, and ensure that all employees ~~((involved in the logging operation or any of its related activities wear head protection))~~ wear a hard hat whenever there is a potential exposure to danger of flying or falling objects, unless the employees are protected by FOPS, cabs, or canopies meeting the requirements of this chapter.

(1) ~~((Hard hats purchased after February 20, 1995, must meet the requirements of ANSI Z89.1-1986, "American National Standard for Personnel Protection - Protective Headwear for Industrial Workers - Requirements," or the employer must demonstrate that they are equally effective.))~~ Head protection (hard hats) must comply with any of the following consensus standards:

(a) ANSI Z89.1-2009, "American National Standard for Industrial Head Protection";

(b) ANSI Z89.1-2003, "American National Standard for Industrial Head Protection"; or

(c) ANSI Z89.1-1997, "American National Standard for Personnel Protection - Protective Headwear for Industrial Workers - Requirements."

Note: You may use protective helmets that do not meet these ANSI standards if you can demonstrate that they are equally effective as those constructed in accordance with the above ANSI standards.

(2) ~~((Hard hats purchased before February 20, 1995, must meet the requirements of ANSI Z89.1-1969, "American National Standard Safety Requirements for Industrial Head Protection," or the employer must demonstrate that they are equally effective.~~

~~((3)))~~ Hard hats must be maintained in serviceable condition.

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

**WAC 296-54-51120 Eye and face protection.** ~~((The employer))~~ You must provide, at no cost to the employee, and ensure that each employee wears:

(1) Eye protection meeting the requirements of WAC 296-800-160, where there is potential for eye injury from falling or flying objects; and

(2) Face protection meeting the requirements of WAC 296-800-160, where there is potential for facial injury such as, but not limited to, operating a chipper. An employee using a chain saw may use either eye or face protection.

Note: The employee does not have to wear separate eye protection when the face protection also covers the eyes.

Note: Mesh type screen goggles or face shields, which conform to ANSI Z87.1, may be used while operating a chain saw or during chipping operations.

AMENDATORY SECTION (Amending WSR 03-11-060, filed 5/19/03, effective 8/1/03)

**WAC 296-54-51130 Hearing protection.** ((The employer)) You must provide hearing protection when required by chapter 296-817 WAC, Hearing loss prevention (noise).

AMENDATORY SECTION (Amending WSR 06-07-142, filed 3/21/06, effective 5/1/06)

**WAC 296-54-51140 Hand protection.** (1) ((The employer)) You must provide, and make sure that each employee handling wire rope or other rough materials 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 05-20-055, filed 10/3/05, effective 12/1/05)

**WAC 296-54-51150 Respiratory protection.** ((The employer)) You must provide respiratory protection when required by chapter 296-842 WAC, Respirators.

AMENDATORY SECTION (Amending WSR 12-01-086, filed 12/20/11, effective 2/1/12)

**WAC 296-54-51160 Leg protection.** (1) ((The employer)) You must provide, at no cost to the employee, and ensure that each employee who operates a chain saw wears leg protection ((constructed with cut resistant material, such as ballistic nylon.)) meeting the requirements of ASTM F1897 "American Society for Testing and Materials Standard Specification for Leg Protection for Chain Saw Users." The leg protection must cover the full length of the thigh to the top of the boot on each leg to protect against contact with a moving chain saw.

EXCEPTION: This requirement does not apply to an employee working aloft in trees when supported by climbing spurs and climbing belt, or when an employee is working from a vehicle-mounted elevating and rotating work platform meeting the requirements of chapter 296-869 WAC, Elevating work platforms.

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

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

**WAC 296-54-51170 Foot protection.** (1) Each employee must wear foot protection that covers and supports the ankle, such as heavy-duty ((logging)) boots.

(2) Each employee who operates a chain saw must wear cut resistant foot protection that will protect the employee against contact with a running chain saw.

For example: Leather logging boots, insulated rubber pacs, and rubber boots with cut protection will meet the cut-resistant requirement of this section.

(3) All employees whose duties require them to walk on logs or boomsticks must wear sharp-calked boots, or the equivalent.

EXCEPTION 1: When calks are ineffective because of ice, snow, or other conditions and other footwear does not provide suitable protection, employees must be prohibited from working on logs or boomsticks.

EXCEPTION 2: The employer may allow employees to wear nonslip boots instead of calks when the nonslip boots provide greater employee protection than calks (such as at scaling stations, log sorting yards, etc.). The nonslip boots must still provide firm ankle support and secure footing.

(4) Foot protection must be maintained in serviceable condition.

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

**WAC 296-54-51190 Highly visible clothing.** (1) Employees working on landings or in log sorting yards on or from the ground, must wear at least one piece of highly visible equipment, whether it be their hard hat((s)), yellow or orange vests, or other similarly colored garments, to make employees more visible to equipment operators.

Note: The department recommends that hard hats and vests or outer garments be luminous or reflective.

(2) An employee working as a flagger must wear a hard hat and vest or other garment of high visibility colors. Warning vests and hard hats worn at night must be reflective.

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

**WAC 296-54-513 Arrangement of work areas and emergency contact.** (1) Employee work areas must be spaced and employee duties organized so the actions of one employee do not create a hazard for any other employee.

(2) Work areas must be assigned so that:

(a) Trees cannot fall into an adjacent occupied work area;

(b) The distance between work areas is at least two tree lengths of the trees being fell;

(c) The distance between work areas reflects the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at the worksite; and

(d) A distance of more than two tree lengths is maintained between work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

(3) Each employee must be within visual, audible, or radio/telephone contact with another person who can assist in case of emergency.

(4) In any logging operation where cutting, yarding, or loading are performed, there must be at least two employees working as a team.

(5) Each employee must have visual or audible signal contact with another employee as often as this schedule requires:

(a) Cutters - 30 minutes.

(b) All other employees - 2 hours, which allows for making layouts, notching guyline stumps, etc., during normal work hours.

Exception: The requirements for a two-person team and check-in schedule do not apply to operators of motor vehicles, mechanized logging machines, watchpersons or certain other jobs which, by their nature, are singular employee assignments. However, a procedure for checking the welfare of these employees during their working hours must be instituted and all employees so advised.

(6) Mechanics or other employees must not be assigned to work on equipment by themselves when there is a probability of a fall from elevated work locations or equipment. Also, if the work is of such nature that heavy parts require moving, or there is a probability that anything heavy could fall on the person, there must be another person in the immediate area to render assistance.

(7) ~~((The employer))~~ You must establish a method of checking the employees in from the woods at the end of each shift, including operators of all movable equipment. Each immediate supervisor must account for their crew.

(8) Each logging worksite must have at least one serviceable and operable two-way radio, phone, or radio/phone combination available to reach emergency service. Citizen band radios are permitted only as a secondary means of communication.

(9) Each logging worksite must have an emergency medical plan to ensure rapid emergency medical care for employees with major illnesses and injuries. The plan must be in writing and include the following:

- (a) Township, range, and section numbers or latitude and longitude ~~((or UMS Grid System coordinates))~~;
- (b) Directions by road, or escort provisions to the site;
- (c) Telephone number of emergency medical services; and
- (d) Provisions for emergency vehicle(s) access, when working behind locked gate(s).

AMENDATORY SECTION (Amending WSR 06-07-142, filed 3/21/06, effective 5/1/06)

**WAC 296-54-515 Accident prevention program.** (1) ~~((The employer))~~ You must develop a formal accident prevention program, tailored to the needs of the particular ~~((logging))~~ workplace or 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.
  - (b) How and when to report injuries;
  - (c) The location of first-aid supplies;
  - (d) Safe use, operation and maintenance of tools, machines and vehicles the employee uses or operates;
  - (e) How to report unsafe conditions and practices;
  - (f) The use and care of required personal protective equipment;

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

(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))~~ You must document and maintain current records of required training, including:

- (\*) (a) Who was trained;
- (\*) (b) The date(s) of the training; and
- (\*) (c) The signature of the trainer or ~~((the employer))~~ yours.

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

**WAC 296-54-51510 Safety and health meetings.** (1) ~~((The employer))~~ You must hold safety and health meetings at ~~((the following intervals:~~

- ~~(a) Each time the employer moves to a new job site; and~~
- ~~(b) Monthly after the initial job site meeting))~~ least monthly.

(2) A safety and health meeting must be held each time you move logging or timber felling operations to a new job site.

Note: When moving to a new job site, site specific hazards should be identified and discussed during the prejob safety meeting.

(3) Safety and health meetings may be conducted individually, in crew meetings, in larger groups, or as part of other staff meetings.

~~((⇒))~~ (4) Attendance and subject(s) must be documented.

(Note: When moving to a new job site, site specific hazards should be identified and discussed during the prejob safety meeting.)

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

**WAC 296-54-51520 First-aid training.** (1) At logging worksites, each employee, including supervisors, must ~~((receive or have received))~~ hold a valid certificate of first-aid and CPR training. New employees not holding a valid ~~((first-aid card))~~ certificate of training must be trained within ~~((a reasonable time, not to exceed six months from hiring))~~ six months of being hired and they must be working on a crew where at least one person holding a valid certificate of first-aid and CPR training is present at all times.

EXCEPTION: Log truck drivers are not required to receive first-aid and CPR training if they are not involved with falling, yarding, loading, or processing logs.

(2) ~~((Each employee's first-aid and CPR training and/or certificate of training must be current.))~~ At road construction and maintenance worksites, whenever two or more employees are present, a person or persons holding a valid certificate of first-aid and CPR training must be present at all times.

(3) At least two persons holding a valid certificate of first-aid training must be present or available at all times in sorting yard operations.

(4) First-aid and CPR training must cover at least the following:

- (a) The definition of first aid.
- (b) Legal issues of applying first aid (Good Samaritan Laws).
- (c) Basic anatomy.
- (d) Patient assessment and first aid for the following:
  - ((\*) (i) Respiratory arrest.
  - ((\*) (ii) Cardiac arrest.
  - ((\*) (iii) Hemorrhage.
  - ((\*) (iv) Lacerations/abrasions.
  - ((\*) (v) Amputations.
  - ((\*) (vi) Musculoskeletal injuries.
  - ((\*) (vii) Shock.
  - ((\*) (viii) Eye injuries.
  - ((\*) (ix) Burns.
  - ((\*) (x) Loss of consciousness.
  - ((\*) (xi) Extreme temperature exposure (hypothermia/hyperthermia).
  - ((\*) (xii) Paralysis.
  - ((\*) (xiii) Poisoning.
  - ((\*) (xiv) Artificial ventilation.
- (e) CPR.
- (f) Applying dressings and slings.
- (g) Treating strains, sprains, and fractures.
- (h) Immobilizing injured persons.
- (i) Handling and transporting injured persons.
- (j) Treating bites, stings, or contact with poisonous plants or animals.

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

**WAC 296-54-51530 First-aid kits.** (1) ~~((The employer))~~ You must provide first-aid kits(~~:~~

- (a) ~~At each worksite where trees are being cut (e.g., fall-ing, bucking, limbing);~~
- (b) ~~At each active landing/logging site; and~~
- (c) ~~In the absence of readily accessible first aid supplies such as first aid kits, first aid stations, first aid rooms or their equivalent, all transport vehicles, log trucks, speeders, road graders and similar equipment must be equipped with not less than a ten package first aid kit; and~~
- (d) ~~The number of first aid kits and the content of each kit must reflect the degree of isolation, the number of employees, and the hazards reasonably anticipated at the worksite.~~

~~(2) Following is the minimally acceptable number and type of required first aid supplies to meet the requirements of subsection (1)(a) and (b) of this section:))~~ at all worksites.

(2) Worksite first-aid kits must contain the following minimum supplies at all times:

Note: The contents of the first-aid kit listed should be adequate for small worksites of two or three employees. For larger or multiple logging operations conducted at the same location, the employer should provide additional first-aid kits or additional quantities of supplies in the first-aid kits.

- (a) Gauze pads (at least 4 x 4 inches).
- (b) Two large gauze pads (at least 8 x 10 inches).
- (c) Box adhesive bandages (band-aids).

(d) One package gauze roller bandage at least 2 inches wide.

- (e) Two triangular bandages.
- (f) Wound cleaning agent such as sealed moistened tow-elettes.
- (g) Scissors.
- (h) At least one blanket.
- (i) Tweezers.
- (j) Adhesive tape.
- (k) Latex gloves.
- (l) Resuscitation equipment such as resuscitation bag, airway, or pocket mask.
- (m) Two elastic wraps.
- (n) Splint.
- (o) One stretcher or equivalent weather proof litter at any three or more person worksite, and at all logging sites.

(3) Transport vehicles, log trucks, ~~((speeders))~~ and road graders must have at least the following number and type of first-aid supplies:

- ~~((4))~~ (a) Ten package kit.
- (+) (b) One pkg. adhesive bandages, 1" (16 per pkg.).
- (+) (c) One pkg. bandage compress, 4" (1 per pkg.).
- (+) (d) One pkg. scissors and tweezers (1 each per pkg.).
- (+) (e) One pkg. triangular bandage, 40" (1 per pkg.).
- (+) (f) One pkg. antiseptic soap or pads (3 per pkg.).
- (5) (g) Five pkgs. employer's choice.

(4) When six or more employees are generally being transported on any one trip, the first-aid kit must be increased in size following the requirements of subsection (2) of this section. Subsection (2)(h), (n) and (o) are optional.

(5) ~~((The employer))~~ You must maintain the contents of each first-aid kit in a serviceable condition.

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

**WAC 296-54-517 Lockout/tagout procedures.** (1) ~~((The employer))~~ You must establish and implement written procedures for lockout/tagout to prevent the accidental start up or release of stored energy of ~~((logging))~~ machinery that is shut down for repairs, maintenance, or adjustments.

(2) Lockout/tagout procedures must contain specific steps for:

- (a) Shutting down, blocking, and securing machines to control hazardous energy;
- (b) Locking and/or tagging out machinery; and
- (c) Release from lockout/tagout.

(3) Lockout/tagout procedure details must include at least the following:

(a) Employees performing maintenance, repairs, or adjustments have knowledge of the hazardous energy to be controlled and the means to control the energy.

- (b) ~~((Logging))~~ Machine shutdown.
- ((\*) (c) Apply brakes, swing locks, etc.
- ((\*) (d) Place the transmission in the manufacturer's specified park position.
- ((\*) (e) Lower to the ground or secure each moving element such as, but not limited to, blades, booms, grapples,

buckets, saws, and shears to prevent a release of stored energy.

((\*) (f) Shut down machinery and ensure that a responsible person removes and maintains possession of the ignition/master key.

((\*) (g) Engage hydraulic safety locks when applicable.

((\*) (h) Before working on hydraulic or air systems, relieve pressure by bleeding tanks or lines and operate controls to dissipate residual stored energy (pressure).

((\*) (i) Place lockout and/or tagout device.

(4) (~~Release from lockout/tagout.~~) Before lockout or tagout devices are removed and machinery is started, the work area must be inspected to ensure that all tools have been removed, guards are replaced, and employees are in the clear.

(5) (~~The employer~~) You must provide padlocks and/or tags for locking and/or tagging out (~~logging~~) machinery that are durable enough to withstand the environment.

(6) Tags must have a legend such as "do not start" or "do not operate." Tags must be placed so they are obvious to anyone attempting to operate the machinery.

Note: In lockout, padlocks are commonly used to prevent access to ignition/master switches or battery disconnects.

(7) (~~Energy sources~~) Stored or residual energy such as that in elevated machine members, rotating saws, hydraulic systems, air pressure and springs, must be dissipated or restrained by methods such as grounding, repositioning, blocking, chaining, bleeding down, etc.

(8) (~~The employer~~) You must provide training to ensure that the purpose and function of the lockout/tagout program are understood by employees performing maintenance, repairs, or adjustments covered by this section. This program must be reviewed at least annually and training provided as needed. This training may be accomplished through safety meetings.

Note: See appendix 2 for a sample lockout/tagout program (energy control program).

AMENDATORY SECTION (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

**WAC 296-54-519 Miscellaneous requirements.** (1) Spikes, drift bolts, nails, or other metal must not be left in any recoverable log.

(2) (~~The employer~~) You must provide and maintain portable fire extinguishers on each machine and vehicle.

(3) Machines, vehicles, and portable powered tools (unless diesel powered) must not be fueled while the motors are running.

Note: See WAC 296-54-58130(3) for exceptions related to helicopters.

(4) Flammable liquids must be stored, handled, transported, and used according to the requirements of chapter 296-24 WAC, Part E, and the following:

(a) Flammable liquids must not be transported in the driver compartment or in any passenger-occupied area of a machine or vehicle.

(b) Flammable liquids, including chain-saw and diesel fuel, may be used to start a fire, if the employer ensures that

in the particular situation its use does not create a hazard for an employee.

(5) Smoking is prohibited in battery charging areas and within fifty feet of all refueling operations. Precautions must be taken to prevent open flames, sparks, or electric arcs in battery charging or refueling areas.

(6) When charging batteries:

(a) The vent caps must be kept in place to avoid electrolyte spray;

(b) Caps must be functioning; and

(c) The battery (or compartment) cover(s) must be open to dissipate heat.

(7) Tools and other metallic objects must be kept away from the tops of uncovered batteries.

(8) Explosives and blasting agents must be stored, handled, transported, and used according to the requirements of chapter 296-52 WAC, Possession and handling of explosives.

#### NEW SECTION

**WAC 296-54-520 Chain shot awareness and prevention.** "Chain shot" is the high velocity separation and ejection of a piece or pieces of cutting chain from the end of a broken chain in mechanized timber harvesting. Chain shot exposes both machine operators and bystanders to a risk of serious injury or death. Chain shot typically occurs near the drive end of the cutting system but can also come from the bar tip area.

A chain shot consists of two breaks in a chain. First, the loop of the chain breaks and forms two ends. One end moves past the drive sprocket or bar tip and is rapidly accelerated due to a whip-like motion of the chain end. The whip action causes the second break, releasing small parts at extremely high speed.

#### NEW SECTION

**WAC 296-54-52001 Chain shot awareness and prevention training.** (1) Employees who will be working on or around any kind of machinery equipped with a hydraulic driven bar and chain are to receive chain shot awareness training appropriate to their job. This training must include:

(a) Clearance distances for workers around the machine. All bystanders and nonessential personnel should stay clear of the shot cone. Chain shot can travel in excess of 250 feet from the saw. See Illustration 1 for an explanation of the impact area for chain shot awareness.

(b) Personnel expected to maintain chains are to be trained in the proper repair, assembly, inspection, and sharpening as specified by the chain manufacturer.

(2) Operators are to be trained specifically on:

(a) When possible, position the saw bar so the chain shot cone is directed away from the operator and other personnel.

(b) How to properly inspect the cutting system and report any problems.

Note: See WAC 296-54-99015 Appendix 6 - Sample chain shot training program.



Illustration 1: Shot Cone Zone

NEW SECTION**WAC 296-54-52003 Cutting system inspection.** (1)

The cutting system must be inspected before initial use during each workshift. Inspections must include:

- (a) The lubrication system for leaks or damage.
  - (b) The chain for cracks or worn/damaged parts.
  - (c) The bar for wear and straightness and ensure the tip is properly secured.
  - (d) Sprocket.
  - (e) Chain catcher if equipped; and
  - (f) Chain shot guard if equipped.
- (2) You must repair defects or damage or the unserviceable machine must be replaced before beginning work.

NEW SECTION**WAC 296-54-52005 Cutting system maintenance.** (1)

- Sharpen chains to the manufacturer's specifications.
- (2) Maintain proper bar and chain lubrication, making sure to use the right type and amount of lubricant.
- (3) Replace the drive sprocket when it has excessive wear.
- (4) Clean guide bar grooves and oil port holes regularly.
- (5) To keep wear even the bar should be flipped regularly.

NEW SECTION**WAC 296-54-52007 Cutting system operation.** (1)

When possible, keep the chain shot cone clear of the operator and other persons.

- (2) Follow the chain manufacturer's recommendation for chain speed. "Boosting" or exceeding the manufacturer's recommendation is prohibited.
- (3) Maintain proper chain tension.

AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

**WAC 296-54-521 Motor vehicles.** (1) The seats of each vehicle must be securely fastened.

(2) Each school bus type vehicle that will transport nine or more passengers must have a substantial barricade behind the driver. The barricade must extend from the floor to at least a level even with the top of the driver's head.

(3) Adequate provisions must be made for safe entrances and exits. Each vehicle must have mounting steps and handholds wherever it is necessary to prevent an employee injury when entering or leaving the vehicle.

(4) When equipment or tools are carried inside the vehicle, ((the employer)) you must provide and use racks, boxes, holsters or other means to transport tools so that a hazard is not created for any vehicle operator or passenger.

(5) No one may enter or exit any vehicle until the vehicle is completely stopped.

(6) Employees must keep all parts of the body within the vehicle.

(7) Heat and light must be available in the passenger area of the vehicle. Use of stoves in vehicles is prohibited.

(8) Vehicles designed to transport nine or more passengers must have an emergency exit that:

(a) Is at least six and one-half square feet in area, with the smallest dimension being at least eighteen inches;

(b) Is placed at the back of the vehicle or near the back on the side opposite the regular entrance; and

(c) Has an unobstructed route to and from the exit.

(9) When no fuel is transported in the crew vehicle, a minimum rated 5/BC dry chemical fire extinguisher must be kept in the passenger compartment. When fuel is transported on the crew vehicle according to subsection (12) of this section, a minimum rated 10/BC dry chemical fire extinguisher must be kept in the passenger compartment. The extinguishing agent must be nontoxic and preferably noncorrosive.

Note: For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

(10) Exhaust systems must be designed and maintained to eliminate the exposure of passengers to toxic agents.

(11) Operating and maintenance instructions must be available in each vehicle. Each vehicle operator and maintenance employee must comply with the operating and maintenance instructions.

(12) Fuel must be transported or stored only in approved safety containers. Enclosed areas where fuels are carried or stored must be vented so that a hazardous concentration of fumes cannot accumulate. All containers or drums must be properly secured to the vehicle while being transported. Commercially built pick-up or flatbed trucks with a maximum seating capacity of six persons may be used to carry fuel in or on the bed of such vehicles, if the fuel is not carried in the crew compartment. Van-type vehicles may be used to carry fuel only when a vapor-proof bulkhead is installed between the passenger compartment and storage compartment. A maximum of forty-two gallons of gasoline may be carried or stored in the compartment and each container must have a maximum capacity seven gallons.

(13) Motor vehicles used regularly to transport employees must be covered against the weather and equipped and operated according to applicable state of Washington motor vehicle laws.

(14) All operators of crew vehicles must be experienced drivers and have a valid operator's license for the class of vehicle being operated.

(15) Dump trucks must only be used in an emergency to transport workers and have adequate safety chains or locking devices that eliminate the possibility of the body of the truck being raised while employees are riding in the truck. "**Emergency**" means any unforeseen circumstances that call for immediate action when danger to life or danger from fire exists.

(16) An effective means of signaling must be provided for communication between the driver and the passengers being transported when they are in separate compartments.

(17) The passenger load limit of a crew vehicle must not exceed the seating capacity of the vehicle.

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

**WAC 296-54-523 Inspection and repair of equipment and vehicles.** (~~Defective equipment.~~) (1) Defective equipment in need of repair must be reported to management as soon as possible and such equipment must not be used until repairs are completed if there is a possible hazard to safety of the operator or other employees.

(2) Each vehicle used to perform any logging operation must be inspected before initial use during each workshift. Defects or damage must be repaired or the unserviceable vehicle must be replaced before work is commenced.

(3) Each vehicle, machine and piece of equipment used to perform any logging operation must be maintained in serviceable condition.

AMENDATORY SECTION (Amending WSR 06-07-142, filed 3/21/06, effective 5/1/06)

**WAC 296-54-527 Seat belts.** Each machine equipped with ROPS or FOPS and each vehicle (whether provided by the employee or (~~the employer~~) you) 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 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.

(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~~) You 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 296-54-529 Overhead electrical lines clearance.** One of the following conditions must exist in work areas where equipment or machines are operated near electrical distribution and transmission lines:

(1) The lines have been deenergized and visibly grounded at the point of work;

(2) Insulating barriers that are not a part of or an attachment to the equipment or machinery are erected to prevent physical contact with the lines; or

(3) All of the following requirements are met:

	Line Voltage	Required minimum clearance between lines and any part of equipment or machine
(a)	50 kV or below	ten feet
(b)	over 50 kV	ten feet plus 0.4 inch for each 1 kV over 50 kV, or twice the length of the line insulator, but never less than ten feet
For equipment or machinery in transit with no load and any boom or extended equipment lowered:		
(c)	50 kV or below	four feet
(d)	50-345 kV	ten feet
(e)	345-750 kV	sixteen feet

(4) Someone must be designated to observe proper clearance and to give timely warning for all operations where it is difficult for the operator to see well enough to maintain the clearance.

(5) All overhead wires (~~shall~~) must be considered energized unless the line owner or the electrical utility authorities ensure that it is not an energized line and has been visibly grounded.

(6) Special precautions must be taken to prevent trees from falling into power lines. (~~The employer~~) You must notify the power company immediately if a felled tree makes contact with any power line. Before falling any tree that appears will hit a power line, the employer must notify the power company. If a tree does contact a power line, all employees must remain clear of the area until the power company ensures that there is no electrical hazard.

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

**WAC 296-54-531 Truck roads.** (1) Haul road grades must not exceed 20 percent unless:

(a) Special equipment and safety measures are used to accommodate the steep grade; or

(b) The logging equipment or truck is specifically designed and approved by the manufacturer for operation on grades over twenty percent.

(2) Truck road surfaces must meet the following requirements:

(a) Truck roads are wide enough and even to ensure the safe operation of equipment.

(b) Hazards such as broken planking, deep holes, large rocks, logs, etc., that make equipment operation unsafe, must be immediately corrected.

(c) On blind curves, one of the following must be implemented:

(i) Truck roads are wide enough for two trucks to pass;

(ii) A signal system is maintained; or

(iii) Speed is limited so that the vehicle can be stopped in one-half the visible distance.

(3) For all portions of roads under (~~the~~) your direct control (~~of the employer, the employer~~), you must ensure that:

(a) All danger trees are felled a safe distance back from the roadway;

(b) Rocks that present a hazard are cleared from banks; and

(c) Brush and other materials that obstruct the view at intersections or on sharp curves are cleared.

(4) All bridge structures used in the logging operation must meet the following requirements:

(a) Structures are adequate to support the maximum imposed loads without exceeding the maximum safe working unit stresses;

(b) Bridges have an adequate number of reflectors to clearly define the entrance to the bridge;

(c) Structures are maintained in good condition and repair;

(d) Structures are inspected at least annually by a qualified authorized person; and

(e) A record maintained of each inspection must be available to a representative of the department on request.

(5) Shear rails must be installed on both outside edges of bridges. The shear rails must be securely fastened and made of material able to withstand the impact generated by contact with the wheels of a loaded vehicle. The top of shear rails must be at least fifteen inches above the bridge surface. Bridges in use before 1980 with outside shear rails a minimum of ten inches high or center shear rails at least five inches high are permissible until repairs are needed.

(6) (~~The employer~~) You must implement measures that minimize dust to the degree that visibility is sufficient to allow an operator to safely operate a vehicle. Vehicle operators must travel at a speed consistent with road conditions.

(7) Pneumatic-tired equipment must have fenders as described in the Society of Automotive Engineers Technical Report J321a.

(8) Employee(s) must be assigned to flag on roads or provide other equivalent protection where hazardous conditions are created from logging such as, but not limited to:

(a) Running wire rope lines or rigging across road grades, excluding guylines and standing skylines if lines remain a safe distance above the road to allow a vehicle to pass under; or

(b) The movement of logs, chunks, or debris across or suspended over road grades.

EXCEPTION: Where there is no through traffic, such as on a dead end road or where the property owner's permission or proper authority is granted to close a section of road, warning signs and barricades may be used instead of flagger(s).

**AMENDATORY SECTION** (Amending WSR 06-07-142, filed 3/21/06, effective 5/1/06)

**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 minimizes chain saw kickback, i.e., reduced kickback bar, chains, bar tip guard, or chain brake;

(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))~~ you demonstrate~~((s))~~ 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.))~~ A chain saw must not be used to cut directly overhead in a manner where the operator could lose control of the saw, or that would cause limbs, chunks of bark or pieces of wood to fall on the operator.

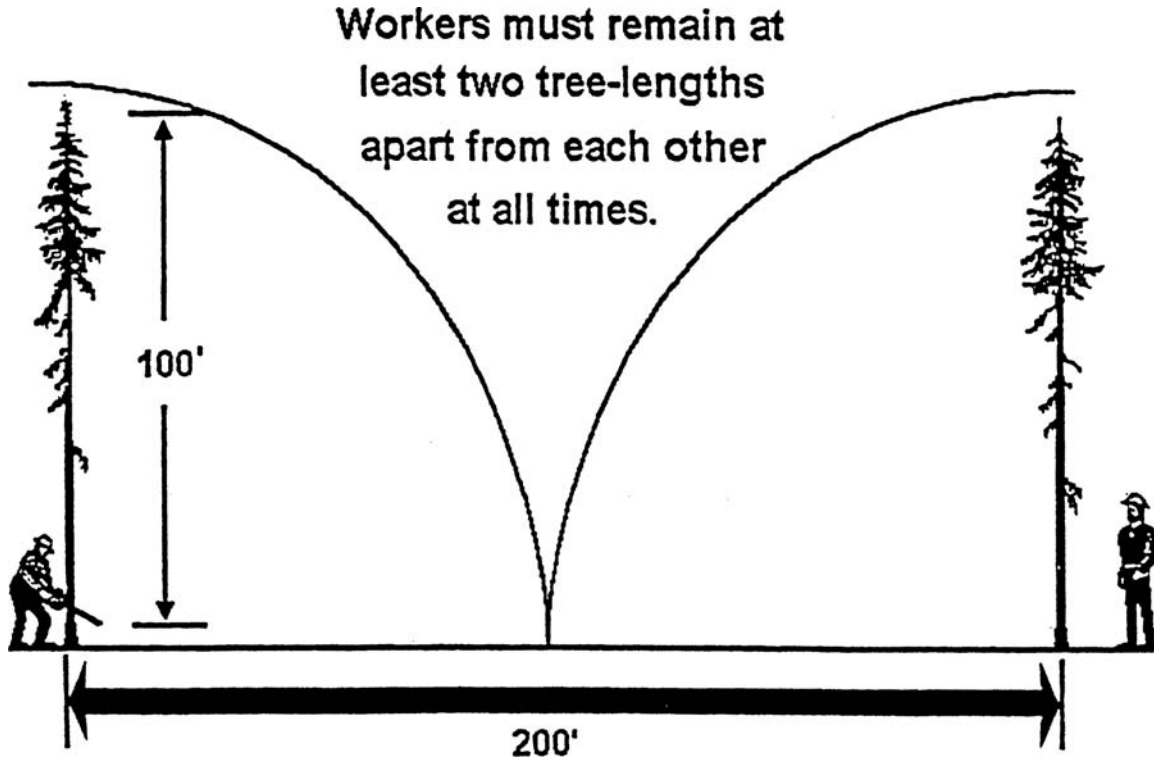
(16) The chain saw operator must be certain of footing before starting to cut. The chain saw must not be used in a position or at a distance that could cause the operator to become off-balance, to have unsteady footing, or to relinquish a firm grip on the saw.

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

**WAC 296-54-539 Falling and bucking—General.** (1) ~~((The employer))~~ You must assign work areas so that:

(a) Trees cannot fall into an adjacent occupied work area;

(b) The distance between work areas is at least two tree lengths of the trees being fell (see Figure 1: Distance Between Work Areas);



**Figure 1: Distance Between Work Area**

(c) The distance between work areas reflects the degree of slope, the density of the growth, the height of the trees, the soil structure and other hazards reasonably anticipated at the worksite; and

(d) A distance of more than two tree lengths is maintained between work areas on any slope where rolling or sliding of trees or logs is reasonably foreseeable.

**EXCEPTION:** This rule does not apply to a team of cutters working on the same tree.

(2) Before falling or bucking, conditions such as, but not limited to, snow and ice accumulation, the wind, the lean of tree, dead limbs, and the location of other trees, must be evaluated by the cutter and precautions taken so a hazard is not created for an employee. Accumulations of snow and ice that may create a hazard for an employee must be removed before beginning falling in the area, or the area must be avoided.

(3) Employees must not approach a cutter closer than two tree lengths of trees being felled until the cutter has acknowledged that it is safe to do so.

(4) A competent person, properly experienced in this type of work, must be placed in charge of falling and bucking operations. Inexperienced workers must not be allowed to fall timber, buck logs or windfalls unless working under the direct supervision of an experienced cutter.

(5) Trees must not be felled if the falling tree can strike any line in the logging operation and endanger workers.

(6) Before an employee falls or bucks any tree:

- (a) A sufficient work area must be swamped;
- (b) The cutter must plan and clear an escape path; and

(i) The escape path must extend diagonally away from the expected felling line unless such an escape path poses a greater hazard than an alternate escape path; and

(ii) An escape path must be used as soon as the tree or snag is committed to fall, roll, or slide.

(7) If a cutter has determined a tree cannot be safely felled, the work must stop until the cutter has conferred with a supervisor or an experienced cutter and determined the safest possible work method or procedure.

(8) The person in charge of cutting crews must regularly inspect the work of the cutting crews and is responsible to ensure the work is performed in a proper and safe manner.

(9) All cutters must carry or have in near proximity at all times:

- (a) An axe or suitable tool for driving wedges;
- (b) A minimum of two wedges;
- (c) A whistle carried on the person; and
- (d) A first-aid kit.

(i) The first-aid kit must contain at least two trauma bandages or equivalent absorbent gauze material and a means to secure the material in place.

(ii) First-aid supplies must be kept clean and dry.

(10) A flagperson(s) must be assigned on roads where hazardous conditions are created from falling trees. Where there is no through traffic, such as on a dead end road, warning signs or barricades may be used instead of a flagperson(s).

(11) ~~(A cutter must not fall a tree or danger tree alone when at least two cutters are necessary to minimize hazards.)~~  
One worker must not fall a tree or danger tree when the assistance of another worker is necessary to minimize the risk of

injury caused by overhead hazards, loose bark, or interlocked limbs, conditions of the tree, terrain or cutting conditions.

(12) When manual falling or tree jacking, trees must not be felled directly uphill when the probability of the tree sliding back past the stump is likely.

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

**WAC 296-54-53910 Falling and bucking—Falling.**

(1) Where felled trees are likely to roll and endanger workers, cutting must proceed from the bottom toward the top of the slope, and uphill from previously fell timber.

(2) A cutter must not be placed on a hillside immediately below another cutter or below other logging operations where there is probable danger.

(3) Cutters must be informed of the movement and location of other employees placed, passing, or approaching the vicinity of trees being fell.

(4) ~~Before falling trees, cutters must ((give audible warning when falling trees, and)):~~

~~(a) ((Indicate the direction of fall;~~

~~(b)) Ensure that all ((employees)) personnel are out of reach of the tree; and~~

~~((c)) (b) Ensure that all ((employees)) personnel are in the clear of logs, fallen trees, snags, or other trees that may be struck by the falling tree.~~

~~((EXCEPTION: Audible warnings are not required when falling trees less than eighteen inches DBH, if the cutter has an unobstructed view of the entire area that could be affected by the tree being fell and is assured there is no one within the area.))~~

(5) While manual falling is in progress, all logging machines must be operated at least two lengths away from trees being manually 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's entrance into the area and all falling within two tree lengths of the logging machine must stop.

(6) Trees must be fell into the open whenever conditions permit.

(7) Cutters must not fall into another strip; trade leaners on the line.

(8) Knocking over trees larger than six inches in diameter in lieu of cutting is prohibited, except as provided in WAC 296-54-53910(9).

(9) Domino falling of trees, including danger trees, is prohibited. Domino falling does not include the falling of a single danger tree by falling another single tree into it.

(10) Undercuts large enough to safely guide trees and eliminate the possibility of splitting must be used on all trees over six inches DBH.

For example: A tree with no perceptible lean, having an undercut depth of one-fourth of the diameter of the tree and a face opening equal to one-fifth of the diameter of the tree would meet the requirement.

(11) A cutter must place an adequate undercut and leave enough holding wood to ensure the tree will fall in the intended direction.

(12) The two cuts that form the undercut must not cross where they meet, except where a dutchman is required on either side of the cut.

(13) The undercut must not be made while other workers are in an area into which the tree could fall.

(14) A backcut must be made in each tree being fell.

(a) The backcut must be as level as possible;

(b) The backcut must leave enough hinge wood to hold the tree to the stump during most of its fall so that the hinge is able to guide the tree's fall in the intended direction; and

(c) The backcut must be above the level of the horizontal facecut to provide an adequate platform to prevent kickback.

EXCEPTION: This requirement does not apply to open-faced falling where two angled facecuts are used instead of a horizontal facecut.

(d) In tree-pulling operations the backcut may be at or below the undercut hinge point.

(15) Cutting holding wood instead of using wedges is prohibited. Swing cuts are prohibited except by an experienced person.

(16) Trees with face cuts and/or backcuts must not be left standing unless all the following conditions are met:

(a) The cutter clearly marks the tree;

(b) Discontinues work in the hazardous area;

(c) Notifies all workers who might be endangered; and

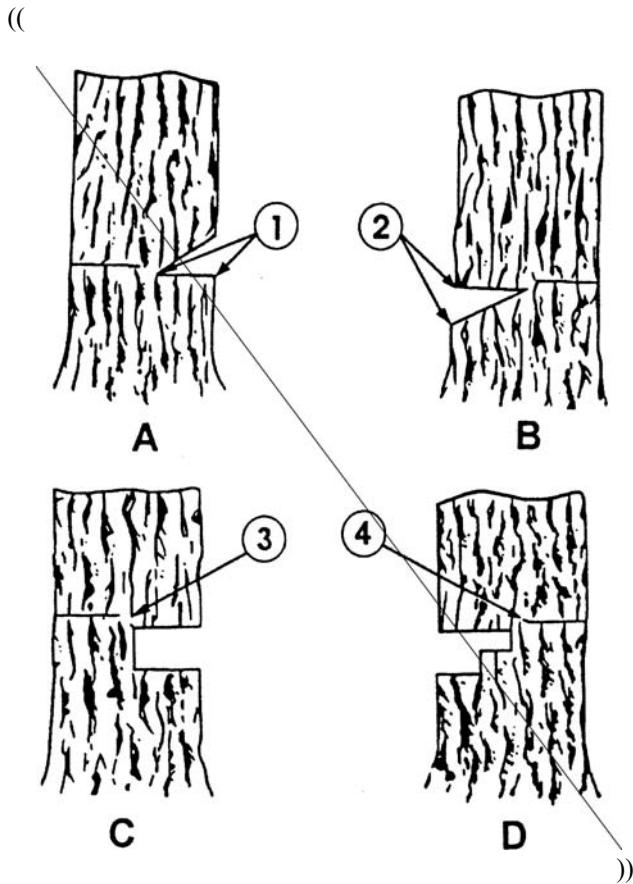
(d) Takes appropriate measures to ensure that the tree is safely fell before other work is undertaken in the hazardous area.

(17) Undercuts and backcuts must be made at a height above the highest ground level to enable the cutter to safely begin the cut, control the tree, and have freedom of movement for a quick escape from a falling tree.

(18) Lodged trees must be clearly marked and identified by a predetermined method and all persons in the area must be instructed not to pass or work within two tree lengths of the trees except to ground them.

Note: See Figure No. 2, for illustrations of undercuts.

FIGURE 2: UNDERCUTS



- (A) **Conventional undercut.** Can be made with parallel saw cut and axe diagonal cut or both cuts with the saw. Generally used on trees of small diameter.
- (B) **Humboldt undercut.** Leaves square-end log. Same as (A), except that waste is put on the stump.
- (C) **Open face undercut.** Both cuts are made with the saw. The top and bottom face cuts generally form a 90 degree angle when completed. Works best on small diameter trees.
- (D) **Two parallel cuts with the saw.** The material between the cuts is chopped out with an axe-adz (pulaski) combination. Used on trees over 30 inches in diameter.
- ~~((D))~~ **Three parallel cuts with the saw, leaving a step.**
- (E) Same in principle as (C). Used on trees of very large diameters.

Item

- 1 Undercut depth
- 2 Undercut height
- 3 Holding wood
- 4 Backcut

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

**WAC 296-54-53920 Falling and bucking—Bucking.**

(1) The tree (and root wad if applicable) must be carefully examined to determine which way the logs (and root wad) will roll, drop, or swing when the cut is completed. No worker shall be allowed in this danger zone during cutting. The cut must be made from a position that will not expose the cutter to potential injury.

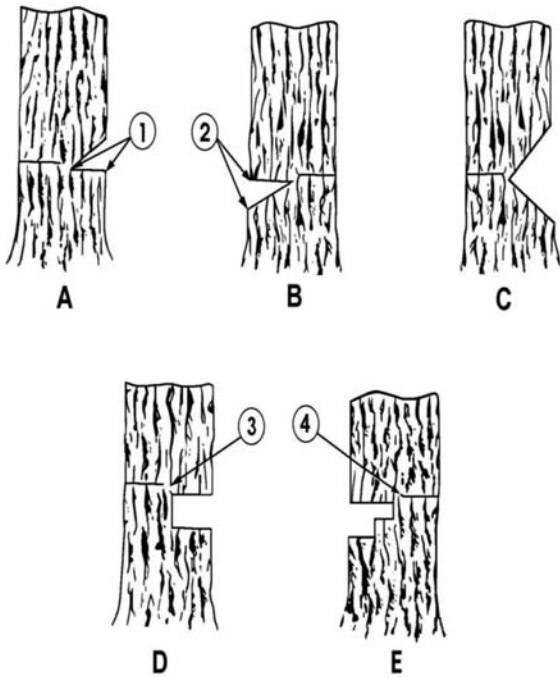
(2) Logs must be completely bucked through whenever possible. If it becomes hazardous to complete a cut, then the log must be marked and identified by a predetermined method. Rigging crews must be instructed to recognize such marks and when possible, cutters must warn the rigging crew of locations where unfinished cuts remain.

(3) Cutters must give a timely warning to all persons within range of any log that may have a tendency to roll after being cut off.

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

**WAC 296-54-53930 Falling and bucking—Danger trees.**

(1) Each danger tree must be carefully checked for signs of loose bark, broken branches and limbs, or other damage before they are fell or removed. Accessible loose bark and other damage that may create a hazard for an employee must be removed or held in place before falling or removing the tree. When a danger tree has elevated loose bark that can-



not be removed, the buddy system must be used to watch for and give warning of falling bark or other hazards.

(2) Danger trees that are unsafe to cut must be blown down with explosives or fell by other safe methods.

(3) To avoid use of wedges, which might dislodge loose bark or other material, danger trees (~~(must)~~) should be fell in the direction of lean unless other means (mechanical or dynamite) are used.

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

**WAC 296-54-53940 Falling and bucking—Springboards and tree jacking.** (1) Springboards must be:

(a) Made of clear, straight grained sound stock;  
 (b) Long enough, wide enough, and strong enough; and  
 (c) Replaced when they will no longer safely support the expected load at the extreme end.

(2) Springboard irons must be well lipped and firmly attached with bolts or other equally strong attachment.

(3) Saw chains must be stopped while shifting springboards.

(4) Jack plates must be used with hydraulic tree jacks and the base plate must be seated on solid wood inside the bark ring as close to level as possible.

(5) When necessary, two workers must be present at the tree during hydraulic tree jacking to lend assistance.

(6) Wedges must be used as a follow-up method while using tree jacks, and continuously moved in as the tree is jacked.

(7) All hydraulic tree jacks must be equipped with a check valve and the pump must be equipped with an operable pressure gauge.

(8) Jacking a tree straight uphill is prohibited when the tree may slide back past the stump.

(9) On slopes over 50% grade, tree(s) must at least be quartered to a degree that prevents employees from being exposed to the possibility of sliding or rolling trees or logs.

(10) Trees must not be felled directly uphill when the probability of the tree sliding past the stump is likely.

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

**WAC 296-54-541 Tree pulling.** (1) The cutter must be responsible for determining if a tree can be safely pulled. If, for any reason, the cutter believes the tree pulling cannot be completed safely, the tree must be conventionally fell.

(2) When using a radio, positive radio communications must be maintained at all times between the tree pulling machine and cutter when tree pulling. An audible signal must be blown when the initial pull is made on the tree and the line is tightened. Hand signals, instead of radio communications and an audible signal, may be used only if the cutter is clearly visible to the tree puller operator.

(3) A choker with bell, or a line and sleeve shackle must be used as the means of attachment around the tree when tree pulling. (See also WAC 296-54-54710(4).) The bight on the line must be the minimum necessary to hold the choker or line around the tree.

(4) The tree pulling machine must be equipped with a torque converter, fluid coupler, or an equivalent device to ensure a steady even pull on the line attached around the tree.

(5) The tree pulling line must have as straight and direct path from the machine to the tree as possible. Physical obstructions that prevent a steady even pull on the tree pulling line must be removed or the line must be rerouted.

(6) (~~(Sawing,)~~) Using a physical object such as a stump or tree in lieu of a block, in order to change tree pulling lead, is prohibited.

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

**WAC 296-54-543 Mechanized falling.** (1) A flagger(s) must be assigned on roads where hazardous conditions are created from falling trees. Where there is no through traffic, such as on a dead end road, warning signs or barricades may be used instead of a flagger(s).

(2) Self-propelled mobile falling equipment used for falling trees must be designed, or have auxiliary equipment installed, that will cause the tree to fall in the intended direction.

(3) Until the machine operator has acknowledged that it is safe to do so, no employee (~~(shall)~~) will approach a mechanical falling operation closer than a minimum of two tree lengths of the trees being fell.

(4) Mechanized falling must be conducted in a way that does not endanger people or equipment.

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

**WAC 296-54-545 Climbing equipment and passline.**

(1) Standard climbing equipment must be furnished by (~~(the employer)~~) you. However, the climber may use personal equipment, if it meets the requirements of this section and is permitted by (~~(the employer)~~) you.

(a) The climber may fasten climbing rope by passing it through "D" rings fastened to the belt and around his body before tying it to itself.

(b) An extra set of climbing equipment must be kept at the (~~(jobsite)~~) job site and another person with climbing experience must be present.

(2) The climber must be equipped with a climbing equipment assembly that includes:

(a) A safety belt with double "D" rings;  
 (b) Steel spurs long and sharp enough to hold in any tree in which they are used; and

(c) A climbing rope (lanyard) made of (~~(wire core hemp, wire or chain construction)~~) a high-quality steel safety chain of 3/16-inch size or larger or a wire core rope.

(3) All climbing equipment must be maintained in good condition.

(4) Defective climbing equipment must be immediately removed from service.

(5) Going up a raised portable spar or tower without suitable equipment is prohibited.

(6) Only an employee directed by the climber may work directly under a tree. The climber must give warning before



intentionally dropping any objects or when objects are accidentally dropped.

(7) Running lines must not be moved while the climber is working in the tree, except such "pulls" as climber directs and are necessary for the work.

(8) One experienced person must be assigned to transmit the climber's signals to the machine operator.

(a) This signal person must not otherwise be occupied while the climber is in the tree.

(b) The machine operator must not be distracted while the climber is using the passline.

(c) The designated signal person must be positioned clear of hazards from falling, flying, or thrown objects.

(9) The climber must be an experienced logger with proper knowledge of logging methods and the safety of rigging spar and tail trees.

(10) Noisy equipment such as power saws, tractors, and shovels must not be operated near where a climber is working when such noise will interfere with the climber's signals.

(11) Climbing and passline equipment must not be used for other purposes.

(12) Lineman hooks must not be used as spurs.

(13) Tools used by the climber, except the chain saw, must be safely secured to ~~((climbers))~~ climber's belt when not in use.

(14) Using snaps on a climber's rope is prohibited unless a secondary safety device between the belt and snap is used.

(15) A climber's rope must encircle the tree before the climber leaves the ground, except when the climber is riding the passline.

(16) While the climber is working in the tree, persons must keep ~~((at))~~ a sufficient distance from the tree to be clear of falling objects.

(17) When used, passline blocks must be kept in alignment and free from fouling.

(18) Loose equipment, rigging, or material must either be removed from the tree or securely fastened.

(19) Drums used for passlines must have enough flange depth to prevent the passline from running off the drum at any time.

(20) Passlines must:

(a) Be at least 5/16-inch and not over 1/2-inch in diameter;

(b) Not be subjected to sawing on other lines or rigging, and kept clear of all moving lines and rigging;

(c) Be one continuous length and in good condition with no splices, knots, molles, or eye-to-eye splices between the ends;

(d) Long enough to provide three wraps on the drum before the climber leaves the ground.

(21) Passline chains must be:

(a) At least 5/16-inch alloy or 3/8-inch high test chain and must not contain cold shuts or wire strands;

(b) Attached to the end of the passline with a screw-pin shackle, a slip-pin shackle with a nut and molle, or a ring large enough to prevent going through the pass block; and

(c) Fitted with links or rings to prevent workers from being pulled into the passline block.

(22) Pass blocks must:

(a) Be inspected before placing in each spar and the necessary replacements or repairs made before they are hung;

(b) Have the shells bolted under the sheaves;

(c) Have the bearing pin securely locked and nuts keyed, or the block positively secures the nut and pin;

(d) Be equipped with sheaves at least six inches in diameter; and

(e) Comply with WAC 296-54-54750.

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

**WAC 296-54-54730 Rigging—Shackles.** (1) Shackles used to hang blocks, jacks, or rigging on spars, must have the pins secured with a nut and cotter key or a nut and molle.

(2) Flush pin, straight-sided shackles must be used for mainline, slackline and skyline extensions.

(3) Shackles with screw pins, knockout or slip pins may be used to anchor skylines, slackline, guyline, and/or guyline extensions.

(4) All other shackles must be screw pin type or have the pin secured with a nut and cotter key or a nut and molle, except as specified elsewhere for specific purposes.

(5) The opening between the jaws of shackles used to hang blocks, jacks, and rigging and to join or attach lines, must ~~((be a maximum of))~~ **not be more than** one inch greater than the size of the rope, swivel, or shackle to which it is attached.

(6) All shackles must be one size larger than the lines they connect and made of forged steel or material of equivalent strength.

For example: 1-inch Extra Improved Plow Steel (EIPS) line requires a 1 1/8-inch shackle. 1-inch swaged line require 1 1/4-inch shackle.

(7) Shackles used to join lines must be hung with the pin and "U" part of the shackle through the eyes of the lines.

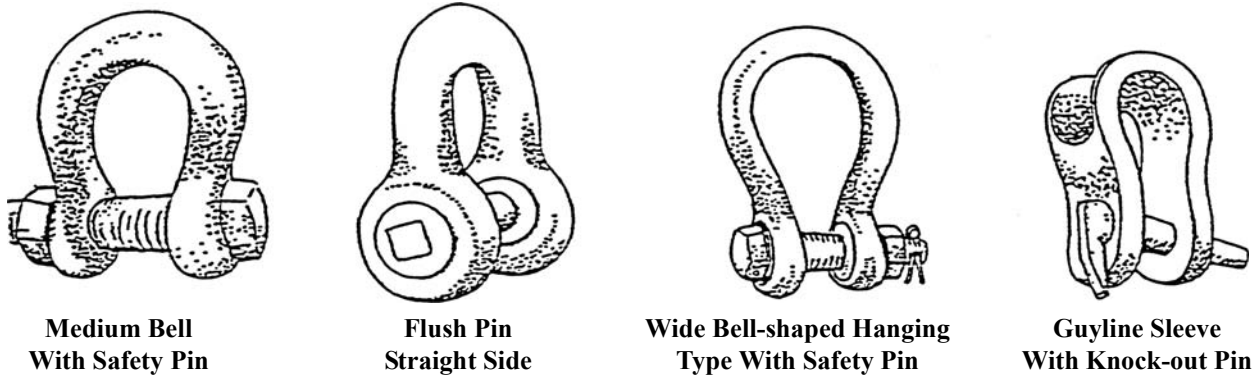


Figure 2-2: Shackles

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

**WAC 296-54-54740 Rigging—Straps.** Straps must be used according to the following requirements:

(1) Straps or chokers used to hang corner or tail blocks and straps used to anchor skylines/slacklines must be the size required by Table 1: Strap/Choker Size in Inches.

Table 1: Strap/Choker Size in Inches		
Running Line Size in Inches	Block or Skyline/ Slackline Hung in Both Eyes	Block Hung in Single Eye
5/16	1/4	1/2
3/8	3/8	9/16
7/16	7/16	5/8
1/2	1/2	3/4
9/16	9/16	7/8
5/8	5/8	1
3/4	3/4	1 1/8
7/8	7/8	1 1/4
1	1	1 3/8
1 1/8	1	
1 1/4	1	
1 3/8	1	
1 1/2	1 1/8	
1 5/8	1 1/4	
1 3/4	1 1/4	
1 7/8	1 3/8	
2	1 3/8	

Note: Both strap ends must be under equal tension.

(2) Straps/chokers must be equivalently sized for the line they support. e.g., extra improved plow steel (EIPS) line requires EIPS straps or equivalent strength material, and swaged lines require swaged straps or equivalent strength material.

(3) When a single choker or single part strap is used to support lift blocks, jacks and tree shoes they must be adequately sized to support the applied loads.

~~((3))~~ (4) When a two part strap or two chokers are used to hang a block, jack, tree shoe, or rigging, both eyes or ends must be under equal tension.

~~((4))~~ (5) Where two equal length chokers are used instead of one choker to gain extra breaking strength, they must be arranged in a swede connection.

~~((5))~~ (6) Straps or chokers used to hang or support blocks, jacks, tree shoes, or rigging must be replaced when there is evidence of damaged or broken wires. They must:

- (a) Be made of new wire rope; or
- (b) Meet the pull test strength of new wire rope.

~~((6))~~ (7) Threading wire rope straps eye through eye is prohibited.

~~((7))~~ (8) Synthetic straps must be used as recommended by the manufacturer and only at a flat or downward angle unless wrapped one full turn around the tree support to prevent the strap from riding up on the support.

~~((8))~~ (9) Synthetic straps must be removed from service when wear reaches the limits prescribed by the manufacturer or when deterioration is evident.

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

**WAC 296-54-54750 Rigging—Blocks.** (1) Load-bearing blocks must:

- (a) Not be used for heavier strains or lines than those for which they are constructed;
- (b) Be fitted with line guards;
- (c) Be designed and used to prevent fouling;
- (d) Be kept in proper alignment when in use;
- (e) Be equipped with bearing and yoke pins that will safely withstand the strains imposed, and are securely fastened; and
- (f) Be equipped with sheaves designed for the size of the wire rope used.

EXCEPTION: Subsections (b), and (f) do not apply to rig-up ("Tommy Moore") blocks.

(2) Blocks with cracked or excessively worn sheaves or shells must not be used.

(3) Block bearings must be kept well lubricated.

(4) All pins in blocks must be properly secured by "Molle Hogans" or keys of the largest size the pin hole will accommodate. When blocks are hung in spars, pins must be secured with a nut and cotter pin or nut and molle.

(5) Lead blocks used for yarding, swinging, loading and unloading used in wood spars ~~((shall))~~ must:

(a) Be of the type and construction designed for this purpose; and

(b) Be bolted with not less than two bolts through the shells below the sheaves in a manner that will retain the sheave and line in case of bearing pin failure (this does not apply to haulback lead blocks) ~~((; and))~~;

~~((e))~~ (6) Mainline blocks ~~((shall))~~ must have a sheave diameter of not less than twenty times the diameter of the mainline.

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

**WAC 296-54-54760 Rigging—Hanging blocks.** (1)

All logging systems must use enough corner or tail blocks to distribute the stress on anchors and attachments.

(2) Blocks (other than passline or haywire) must be hung by one of the following methods:

(a) Hanging the block in both eyes or Ds of the straps ~~((threaded))~~ threading eye through eye of wire rope straps ~~((are))~~ is prohibited; ~~((e))~~

(b) If chokers are used, the ferrule must be properly seated in the socket of the bell or hook to prevent the ferrule from coming unbuttoned. The chokers must be the size required in WAC 296-54-54740(1); or

(c) If single part straps are used, the straps must be secured with a shackle and be the size required in WAC 296-54-54740(1).

(3) The yoke pin of haulback blocks ~~((shall))~~ must be inserted with the head facing the direction from which the rigging approaches.

(4) When there is danger of tail block straps slipping up or off the stump or tree, the stump or tree must be adequately notched or the line properly wrapped and secured. When the tail tree or stump is not secure, it must be tied back.

AMENDATORY SECTION (Amending WSR 06-07-142, filed 3/21/06, effective 5/1/06)

**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;

(7) Long splices must be used to permanently join regu-

(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;

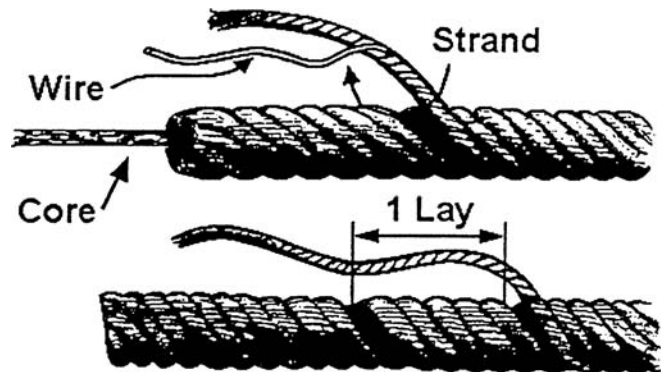
(e) In standing ropes, more than two broken wires in one lay in sections beyond end connections or more than one broken wire at an end connection; and

~~((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.

EXCEPTION: Out-of-service requirements do not apply to chokers, grapple opening lines, tag lines, cat and skidder winch lines, and drop lines that are not used to move the carriage. However, an authorized, qualified person must thoroughly inspect these cables adhering to the requirements of WAC 296-54-54710 (1) and (3).

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



*Wire rope selection is an important element in cable logging.*

**WIRE ROPE**

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

**WAC 296-54-55720 Wire rope—Splicing.** (1) Marlin spikes must be used for splicing. The marlin spikes must be:

(a) Large enough for the size of the line being spliced; and

(b) Maintained in good condition ~~((;))~~;

(2) Short splices, eye-to-eye splices, cat's paws, and knots are prohibited except for moving nonload-bearing lines. Knots may be used on single drum tractors, grapple pickup lines, and dropline carriage systems using slider bells if the knot is tied on the end of the dropline.

(3) Wire rope one-half inch in diameter or less must be tucked at least two times provided the rope is used only as a strawline.

(4) Eye splices in all regular lay lines and straps must be tucked at least three times.

(5) Eye splices in lang lay lines must be tucked at least four times.

(6) Splices, other than eye splices, in lang lay loading lines are prohibited.

lar lay running line.

(8) The length of line strand to be unraveled to make a long splice in wire rope must be as shown in Table 2: Length of Line Strand. The full length of the splice is twice the length of the rope to be unraveled.

Table 2: Length of Line Strand

Rope Diameter	To Be Unraveled	Total Length
1/4"	8'	16'
3/8"	8'	16'
1/2"	10'	20'
5/8"	13'	26'
3/4"	15'	30'
7/8"	18'	36'
1"	20'	40'
1-1/8"	23'	46'
1-1/4"	25'	50'
1-3/8"	28'	56'
1-1/2"	30'	60'
1-5/8"	33'	66'
1-3/4"	35'	70'
1-7/8"	38'	76'
2"	40'	80'

Note: Unraveling 40 lays of cable on each side will give the required length of splice regardless of the diameter.

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

**WAC 296-54-55730 Wire rope—Attaching end fastenings.** (1) The manufacturer's recommendations must be followed when attaching sockets and other end fastenings.

(2) Using cable clips or clamps for joining lines is prohibited, except to transfer slack lines from one place to another.

(3) When U-bolt cable clips are used to form eyes, Table 3: U-bolt Cable Clips to Form Eyes must be used to determine the number and spacing of clips.

Table 3: U-bolt Cable Clips to Form Eyes

Improved Plow Steel Diameter of Rope	Number of Clips Forged	Required Other Material	Minimum Space Between Clips
3/8 to 5/8 inch	3	4	-3/4 inch
3/4 inch	4	5	4-1/2 inch
7/8 inch	4	5	5-1/4 inch
1 inch	5	6	6 inches
1-1/8 inch	6	6	6-3/4 inch
1-1/4 inch	6	7	7-1/2 inch
1-3/8 inch	7	7	8-1/4 inch

Improved Plow Steel Diameter of Rope	Number of Clips Forged	Required Other Material	Minimum Space Between Clips
1-1/2 inch	7	8	9 inches

(4) When U-bolt cable clips are used:

(a) For eye splices, the U-bolt wire rope clip must be attached so that the U section is in contact with the dead or short end of the rope (see Figure 3: Eyes Formed with U-bolt Cable Clips);

(b) U-bolt cable clips must be spaced at least six rope diameters apart to obtain the maximum holding power. Nuts must be tightened evenly and tightened again after application of the first sustained load. After the rope has been used and is under tension, the clips must be tightened again to take up any looseness caused by the tension reducing the rope diameter;

(c) With high strength wire rope, one more U-bolt cable clip must be added for each grade above improved plow steel; and

(d) Eyes formed with U-bolt cable clips are prohibited with running lines or straps.

(5) Wedge-type quick ferrules, such as "quick nub" must not be used as end fittings for guylines and skylines.

APPLICATION OF WIRE ROPE

U-BOLT CLIPS

Crosby Type



1. CORRECT METHOD—U-Bolts of clips on short end of rope. (No distortion on live end of rope)



2. WRONG METHOD—U-Bolts on live end of rope. (This will cause mashed spots on the live end of rope)



3. WRONG METHOD—Staggered clips; two correct and one wrong. (This will cause a mashed spot in live end of rope due to wrong position of center clip)

4. After rope is in service, and is under tension, tighten clips to take up decrease in rope diameter.

Figure 3: Eyes Formed with U-bolt Cable Clips

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

**WAC 296-54-561 Guylines.** (1) Guylines must be used with any logging equipment when required by the equipment manufacturer.

(2) At least the minimum number and angle of guylines recommended by the equipment manufacturer must be used.

(3) Unless otherwise specified by the equipment manufacturer, guylines must be of the following sizes:

(a) In highlead logging, the head spar guylines must be equal in breaking strength to the mainline.

(b) In skyline logging, if the skyline is one and three-eighths inch or greater, the head spar guylines must be at least one and three-eighths inch. If the skyline is less than one and three-eighths inch, the head spar guylines must be equal in breaking strength to the skyline.

(c) On all other cable logging machines, the guylines must have a breaking strength at least equal to the mainline/skyline, whichever is largest.

(d) Tail/lift and intermediate support trees must be adequately guyed to withstand any stress to which the tree may be subjected.

(4) When guylines are required for spars they must be positioned according to Table 4: Guyline Positioning, or according to the manufacturer's specifications.

Table 4: Guyline Positioning

Number of Guys on Spar	Number of Guys Sharing Load	Positioning Figure Number
1	1	4 - 1 Guyline Case
2	2	5 - 2 Guyline Case
3	3*	6 - 3 Guyline Case
	2	7 - 3 Guyline Case (2)
4	2	8 - 4 Guyline Case
5	2	9 - 5 Guyline Case
	3	10 - 5 Guyline Case (2)
6	2	11 - 6 Guyline Case
	3	12 - 6 Guyline Case (2)
7	3	13 - 7 Guyline Case
8	2	14 - 8 Guyline Case
	4	15 - 8 Guyline Case (2)

\* For metal spars designed to operate without snap guy

(5) ~~((a))~~ Guylines supporting metal spars must be made of plow steel or better material and must be maintained in good condition.

~~((b))~~ Guylines for tail/lift and intermediate support trees may be made of synthetic material and must be used according to the manufacturer's recommendations.

(6) Load bearing guyline angles must be no greater than fifty degrees measured horizontally (See Figure 18: Maximum Angle for Load Bearing Guylines and Skyline). If suitable anchors are unavailable or the terrain is so steep that the guyline angle exceeds fifty degrees, an additional guyline must be rigged to oppose the load.

(7) Guylines must be kept securely tightened while the spar, tree, equipment or rigging they support is in use.

(8) Power driven devices must be securely anchored when used to tighten guylines. Holding such devices is prohibited.

(9) All trees that interfere with proper alignment, placement, or tightening of guylines must be fell.

EXCEPTION: It is acceptable to use the base of a tree/stump or ground conditions to change the lead of a guyline for the purpose of keeping the guyline properly positioned.

(10) Guylines must be hung in a manner to prevent an excessive bight or fouling when they are tightened.

(11) The use of loops or molles for attaching guylines is prohibited.

(12) The U part of shackles or sleeves must be around the guyline and the pin passed through the eye of the guyline.

(13) Splicing of guylines is prohibited except to make an eye splice.

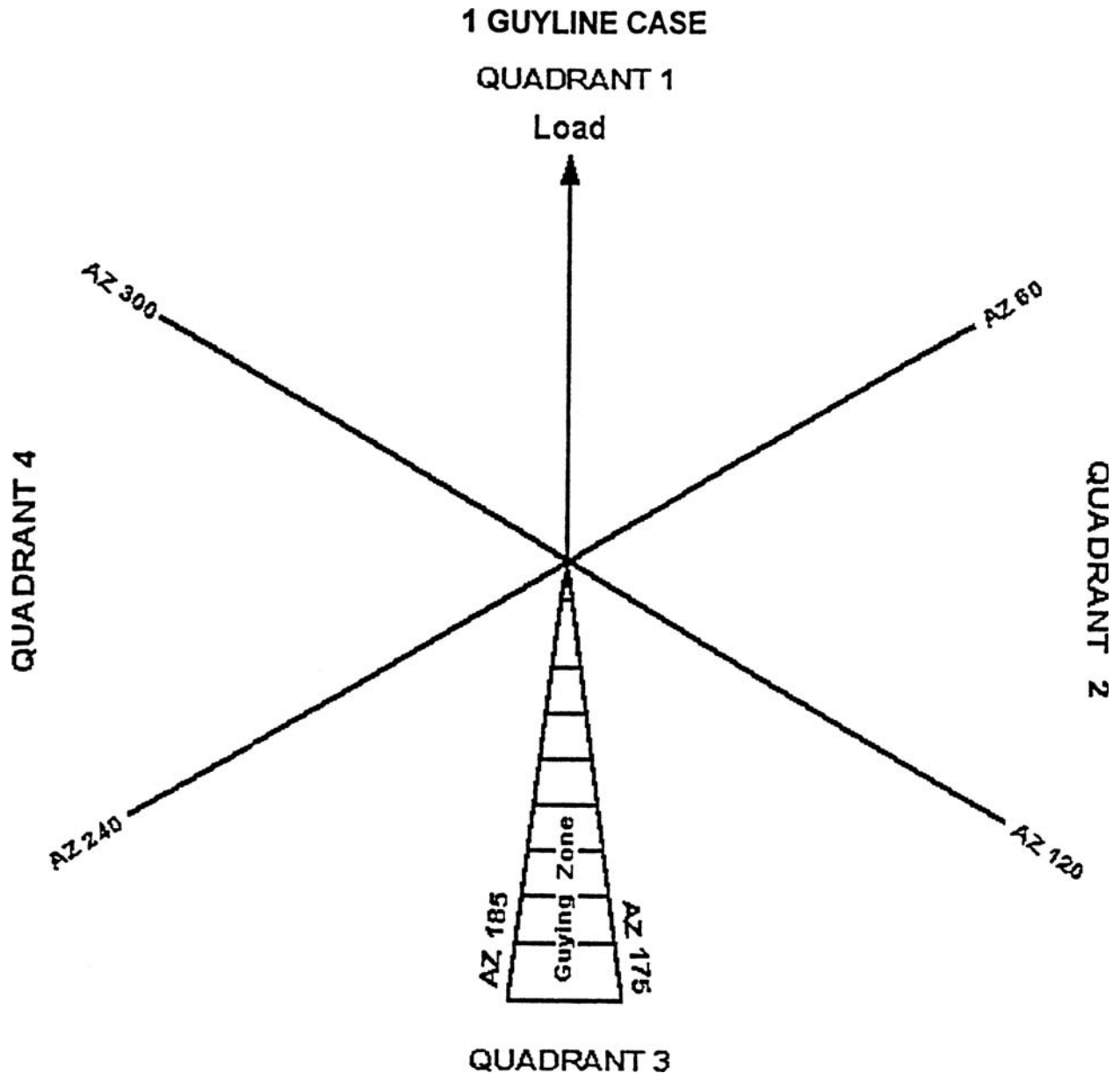
(14) All spliced guyline eyes must be tucked at least three times.

(15) Extensions to guylines must be:

(a) Equal in breaking strength to the guyline to which they are attached; and

(b) Connected only by a shackle connecting two spliced eyes, pressed eyes or by double-end hooks. Connections must have at least one and one-half times the strength of the guyline.

(16) When hanging a block or jack on a guyline, only sleeve-type safety pin shackles must be used. The shackle sleeve ~~((shall))~~ will have not less than two and one-half times the line diameter bearing on the guyline.



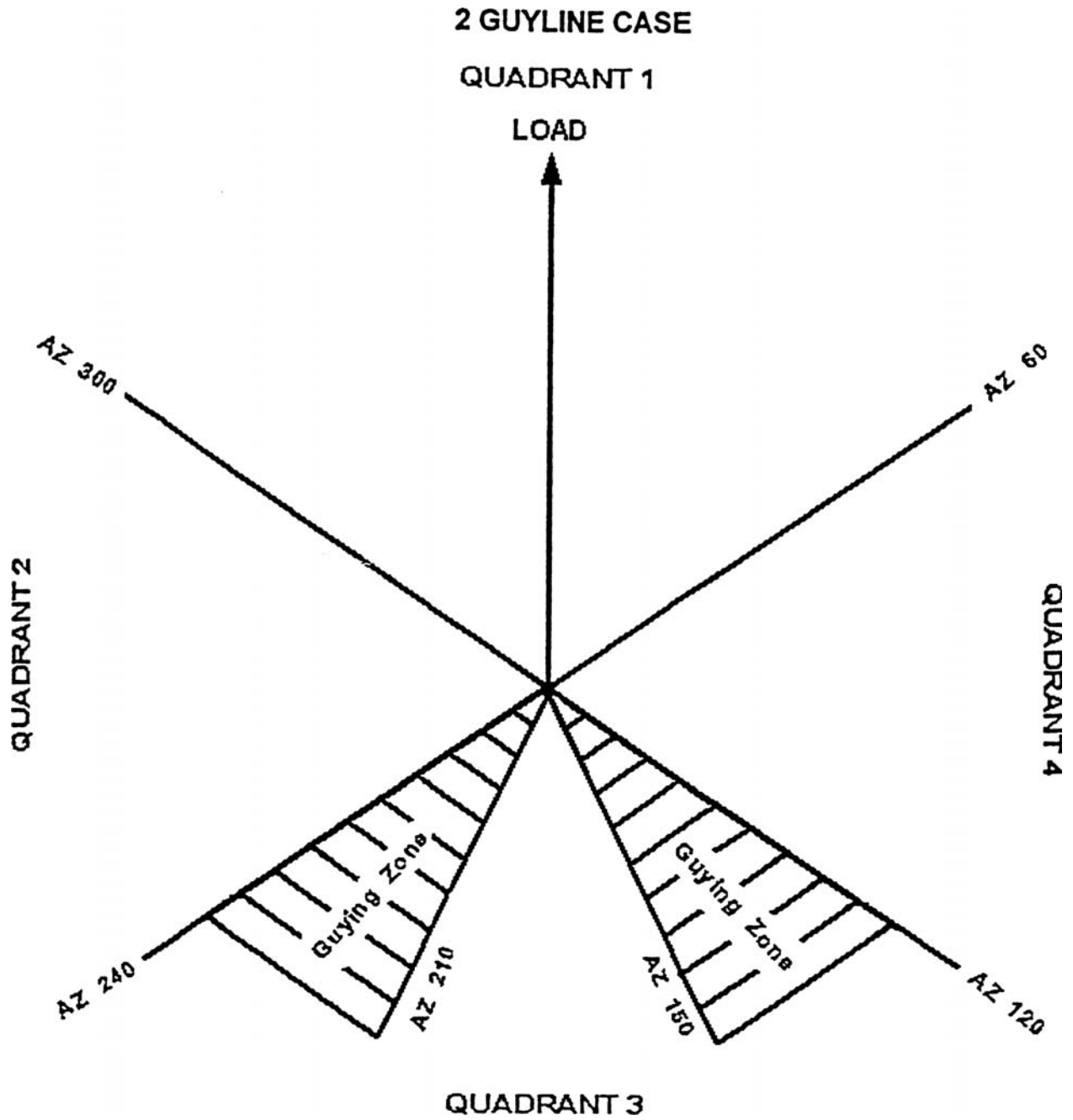


Figure 5: 2 Guyline Case

### 3 GUYLINE CASE

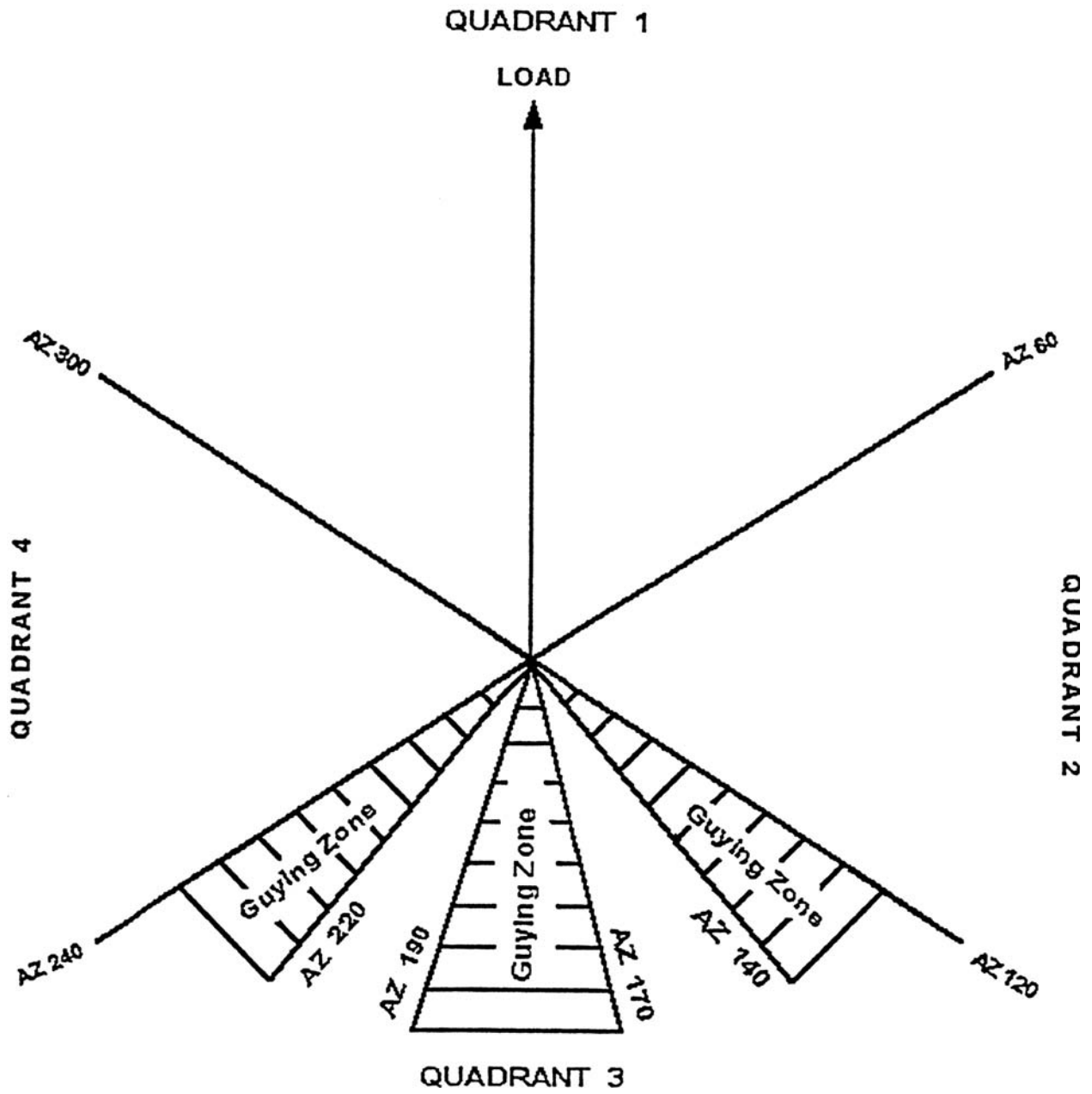


Figure 6: 3 Guyline Case



### 3 GUYLINE CASE

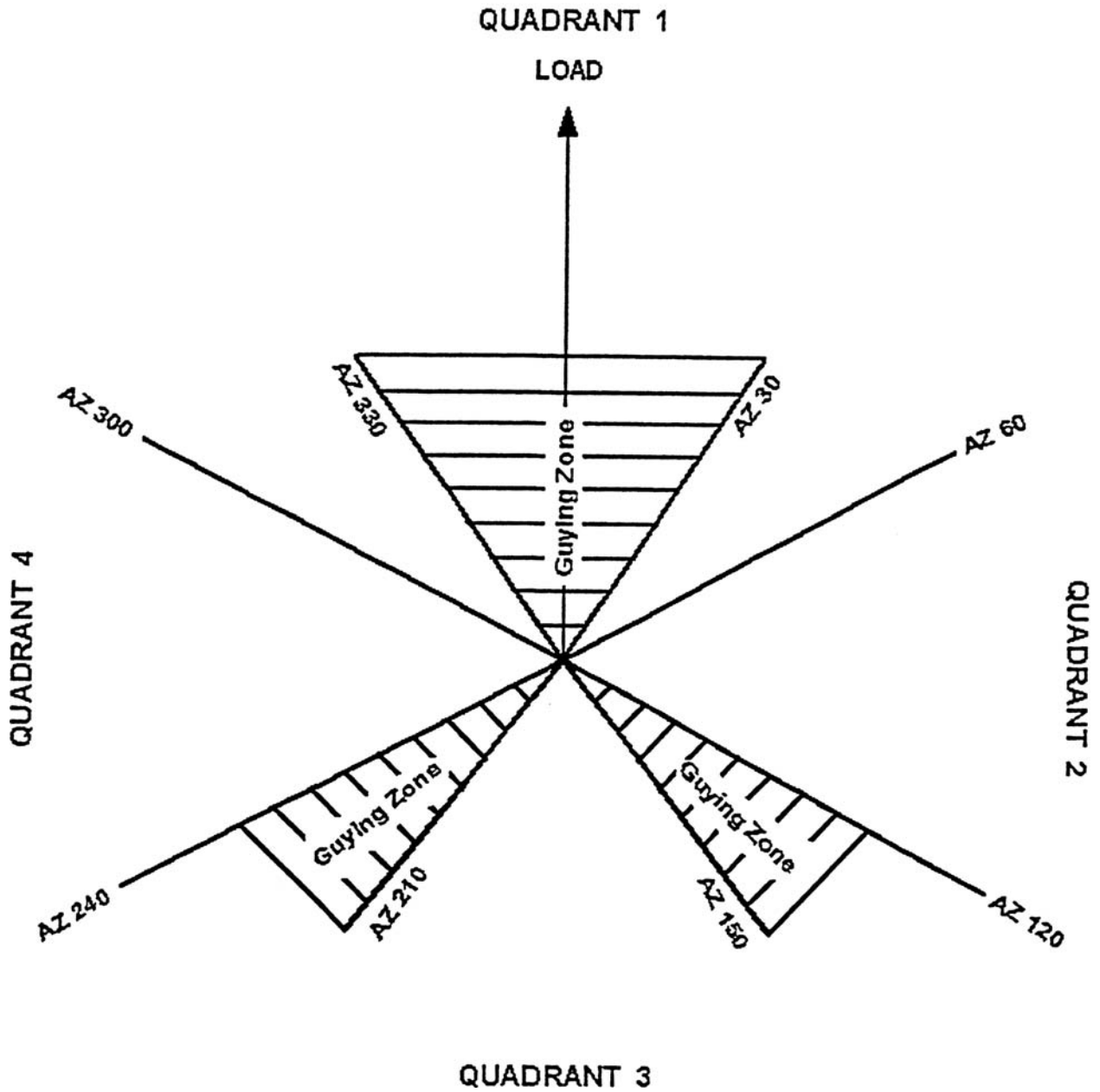


Figure 7: 3 Guyline Case (2)

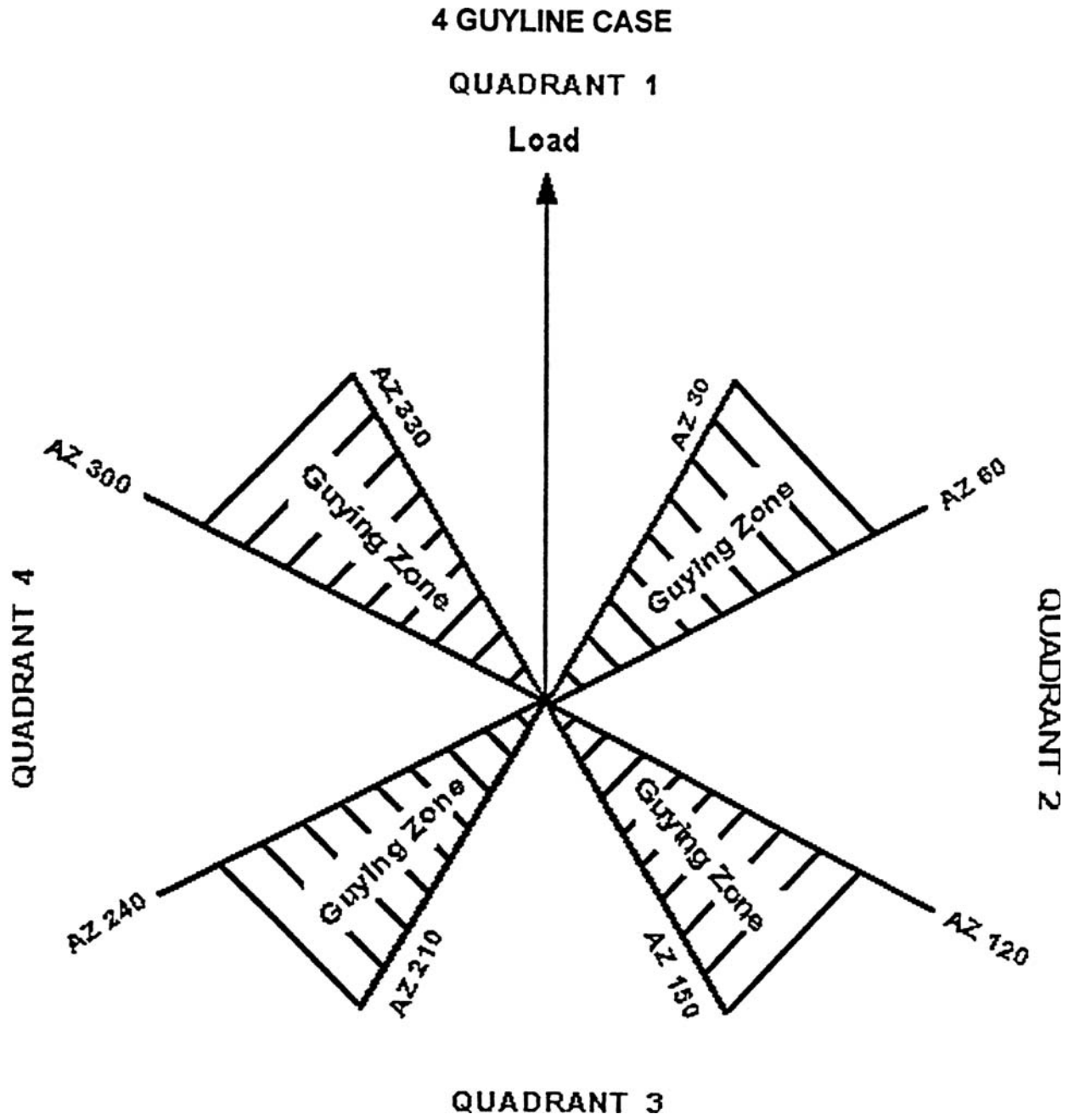


Figure 8: 4 Guyline Case

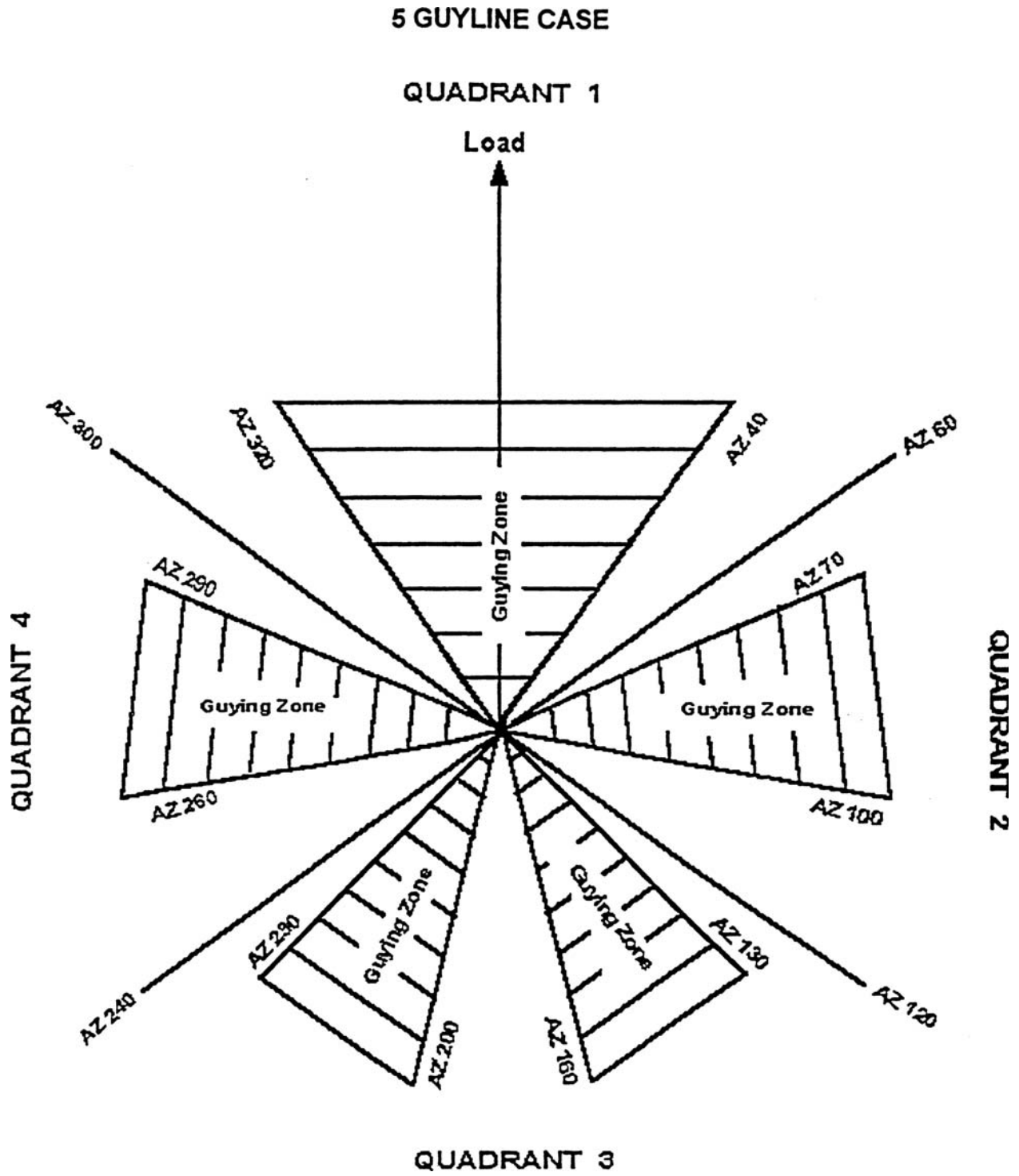


Figure 9: 5 Guyline Case

### 5 GUYLINE CASE

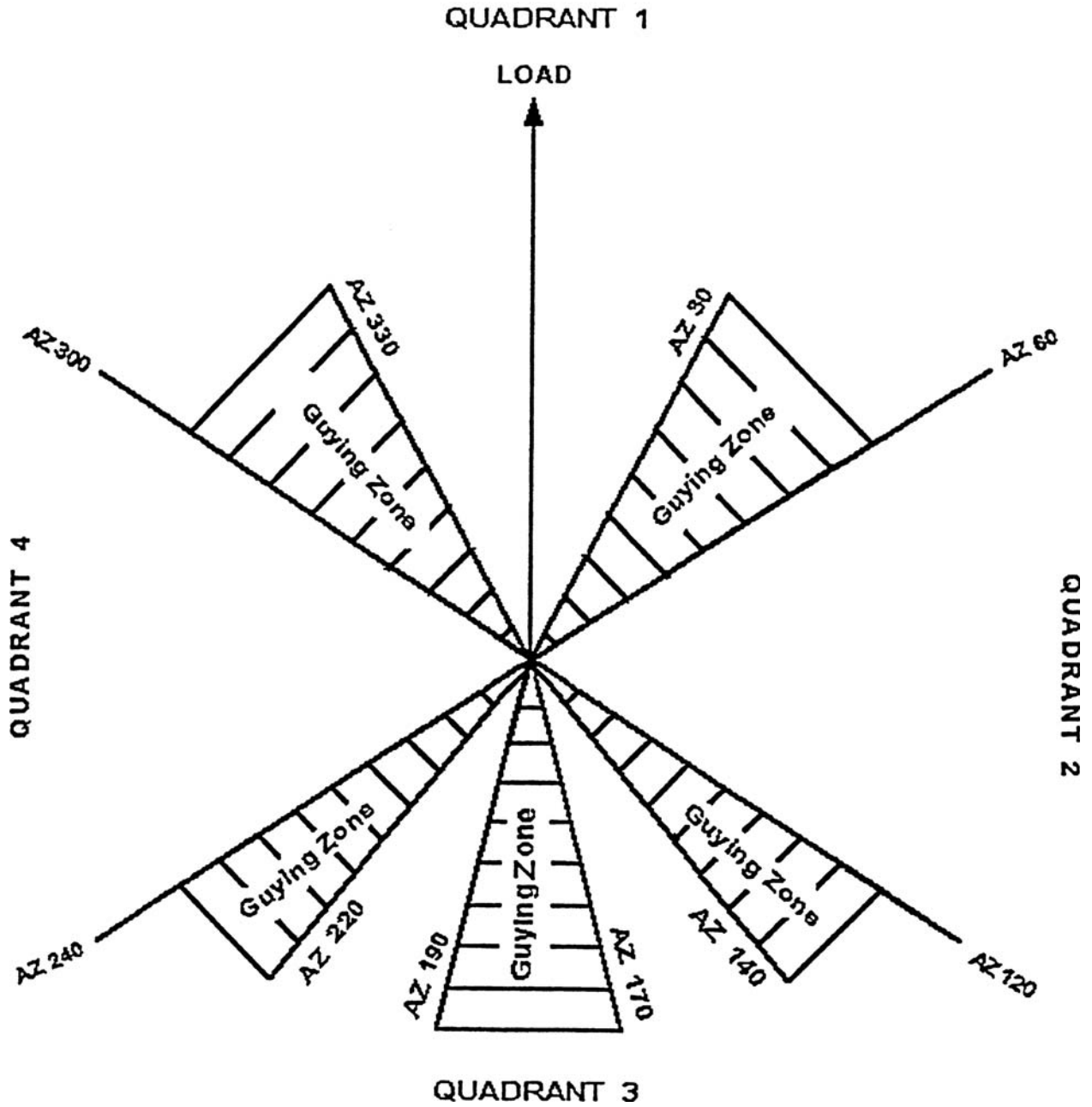


Figure 10: 5 Guyline Case (2)

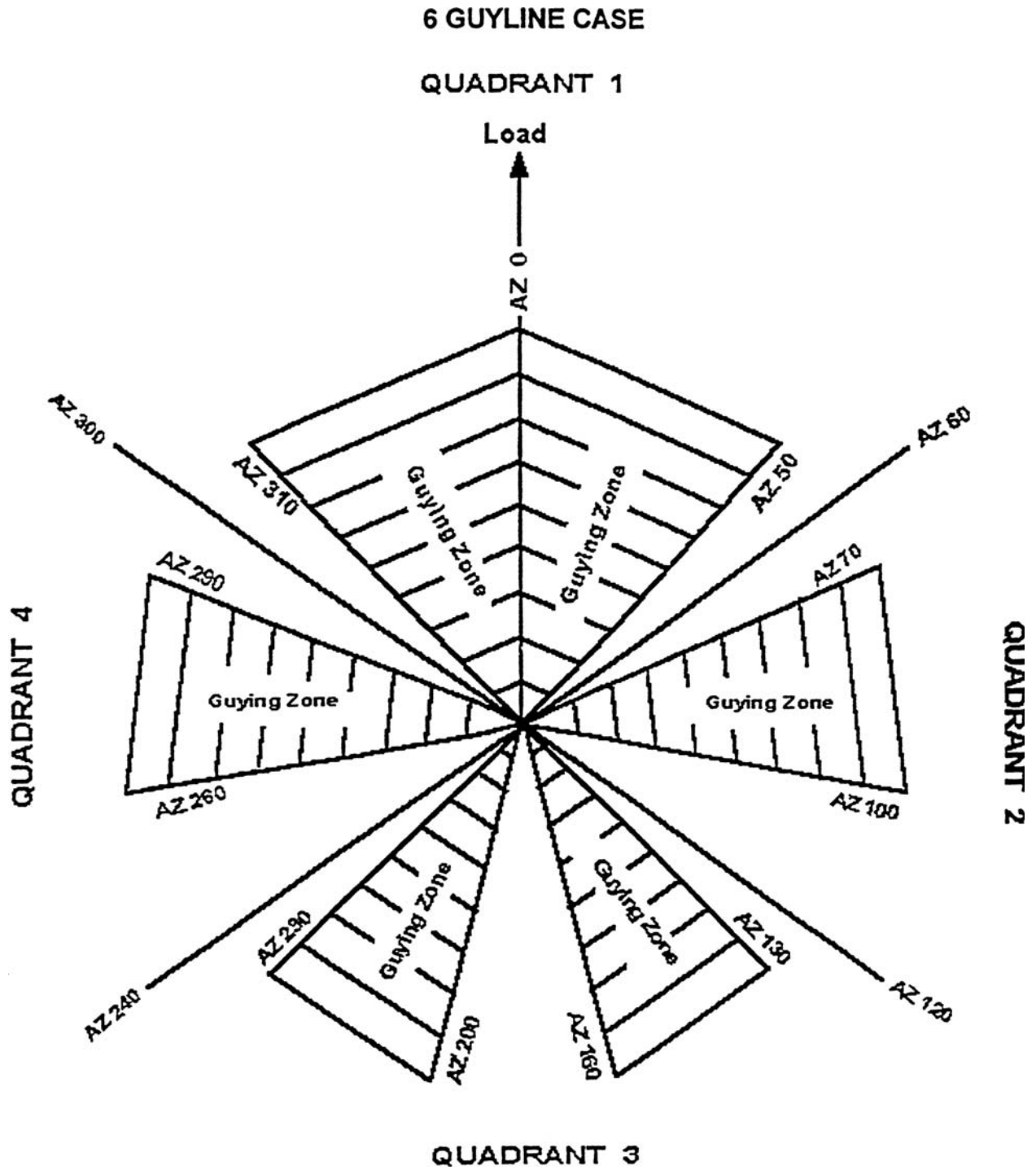


Figure 11: 6 Guyline Case

### 6 GUYLINE CASE

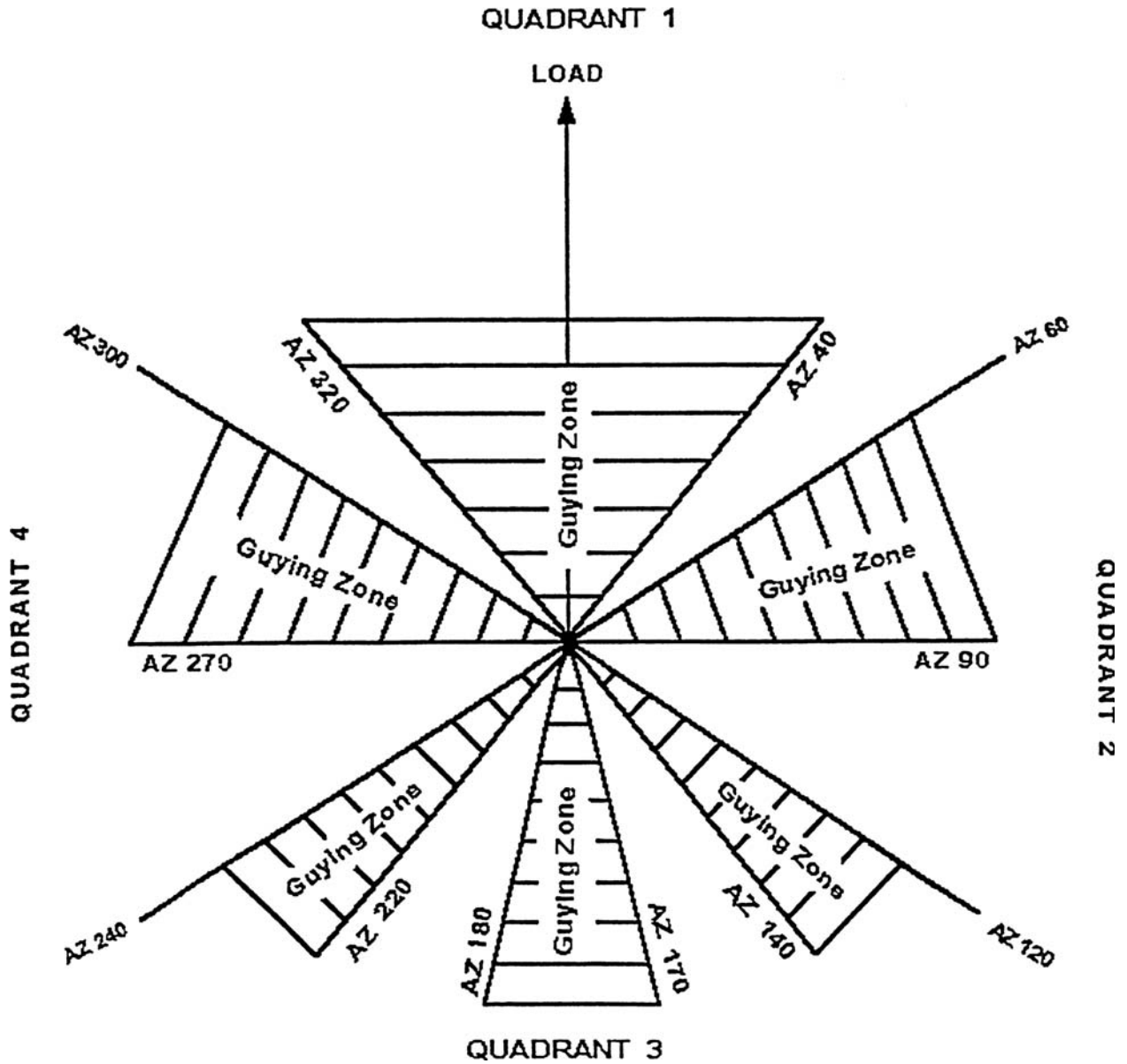


Figure 12: 6 Guyline Case (2)

### 7 GUYLINE CASE

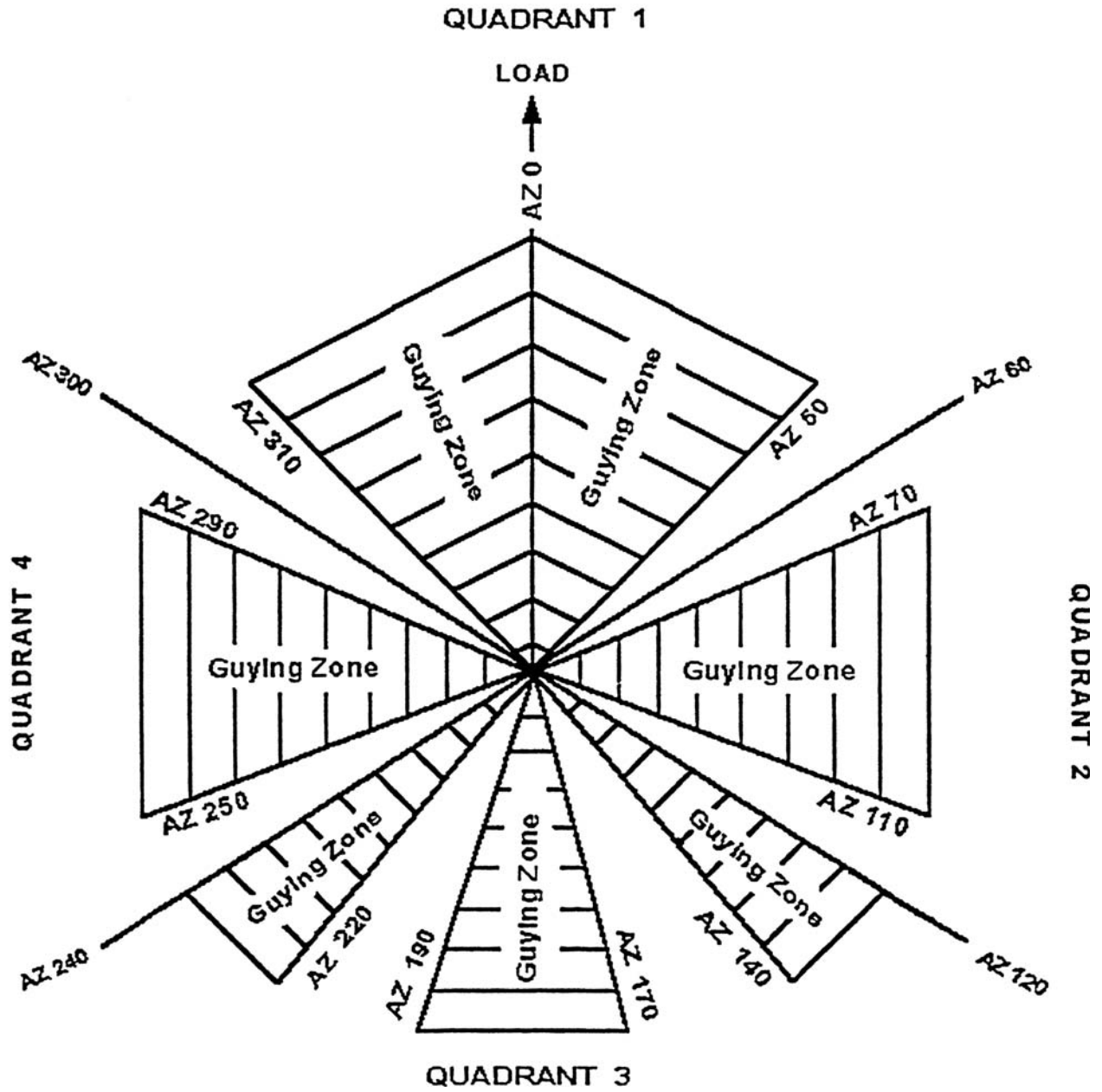


Figure 13: 7 Guyline Case

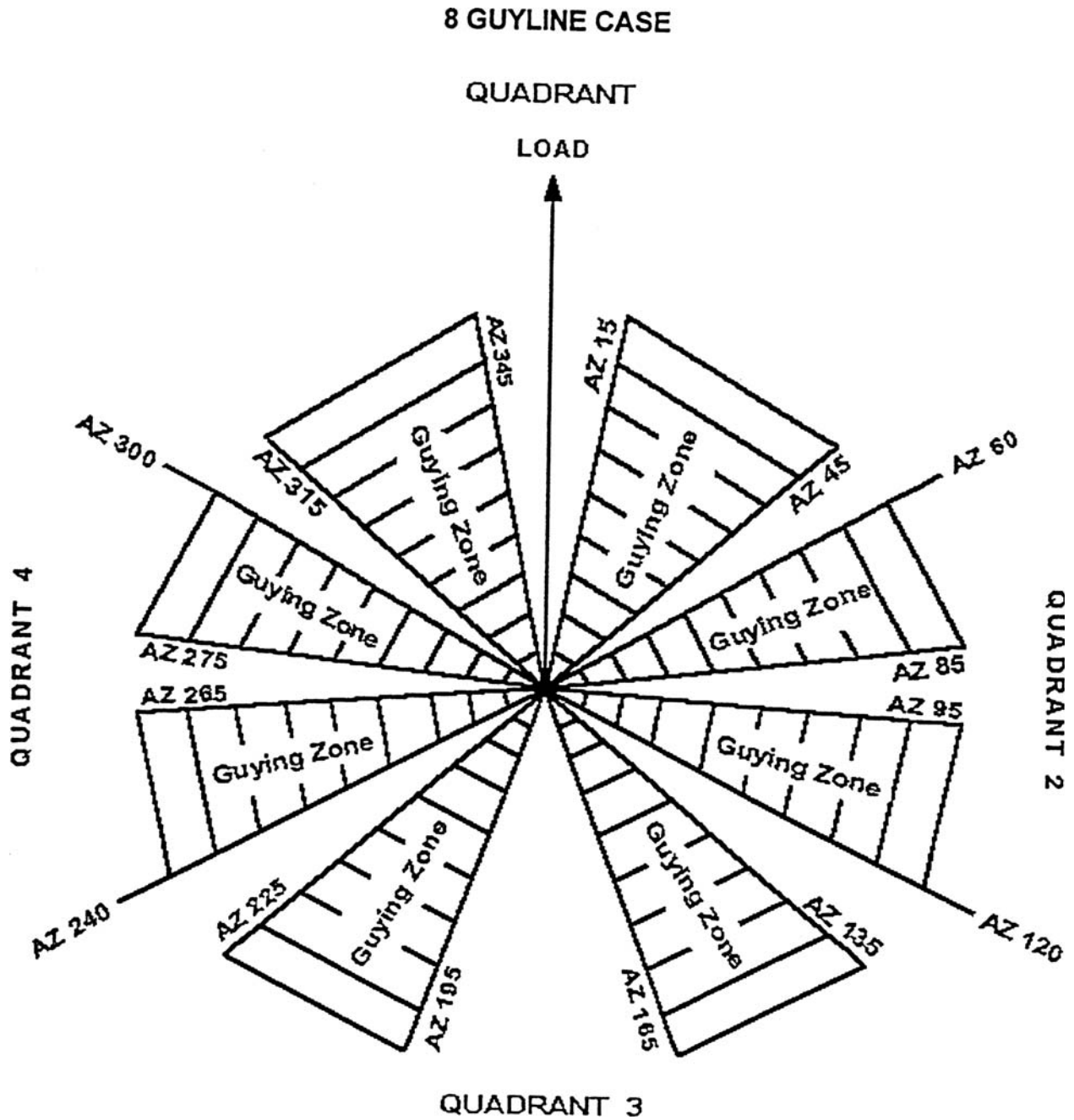


Figure 14: 8 Guyline Case



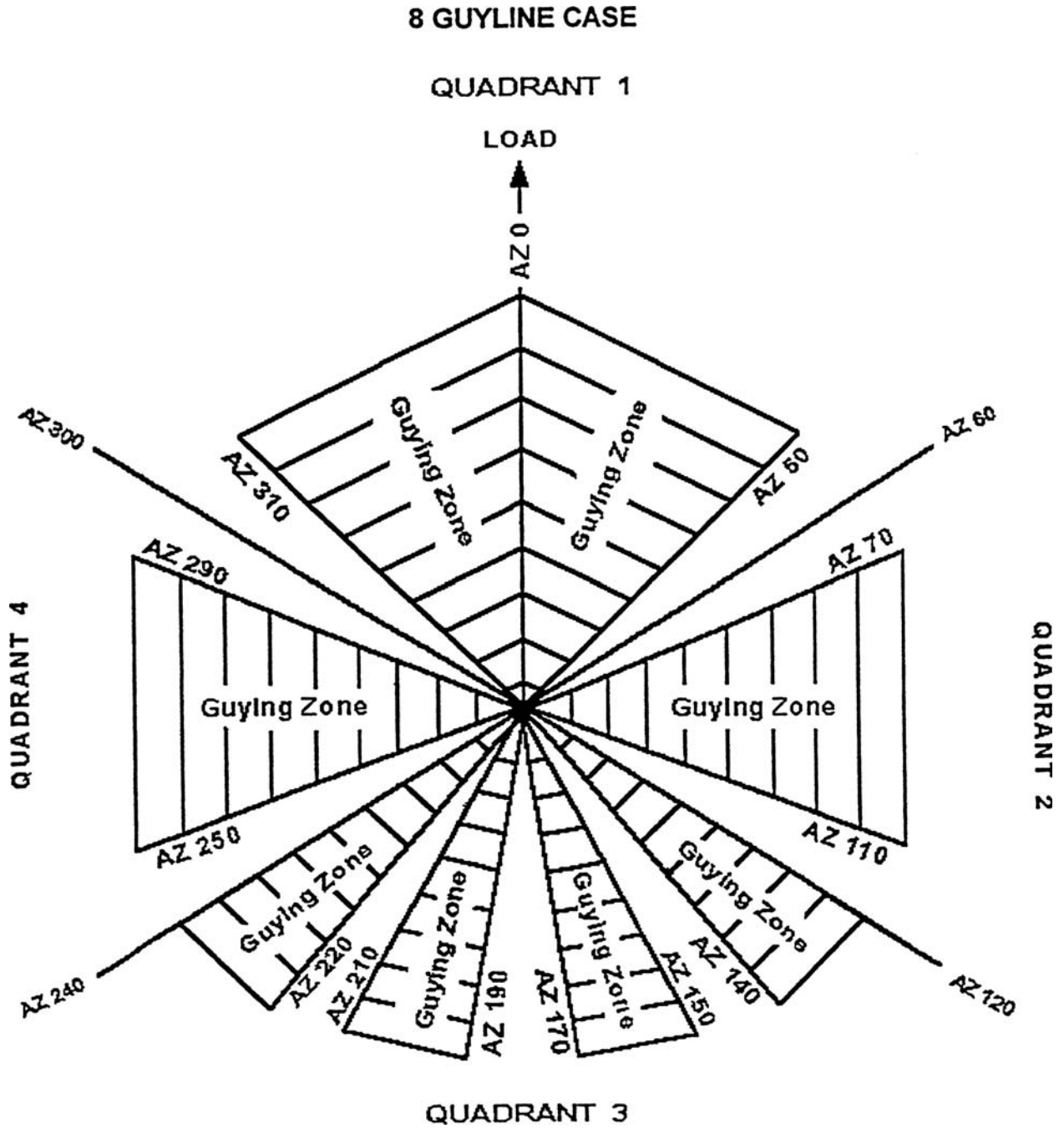


Figure 15: 8 Guyline Case (2)

**POSITIONING GUYLINES IN BACK OF TREE**

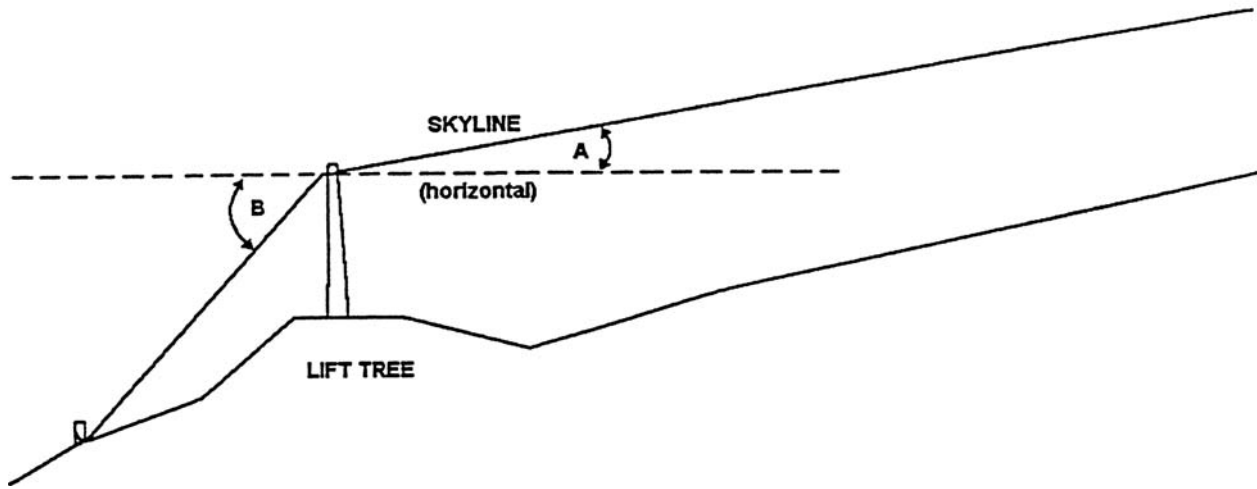


Figure 16: Positioning Guylines in Back of Tree

**POSITIONING GUYLINES IN FRONT OF TREE**

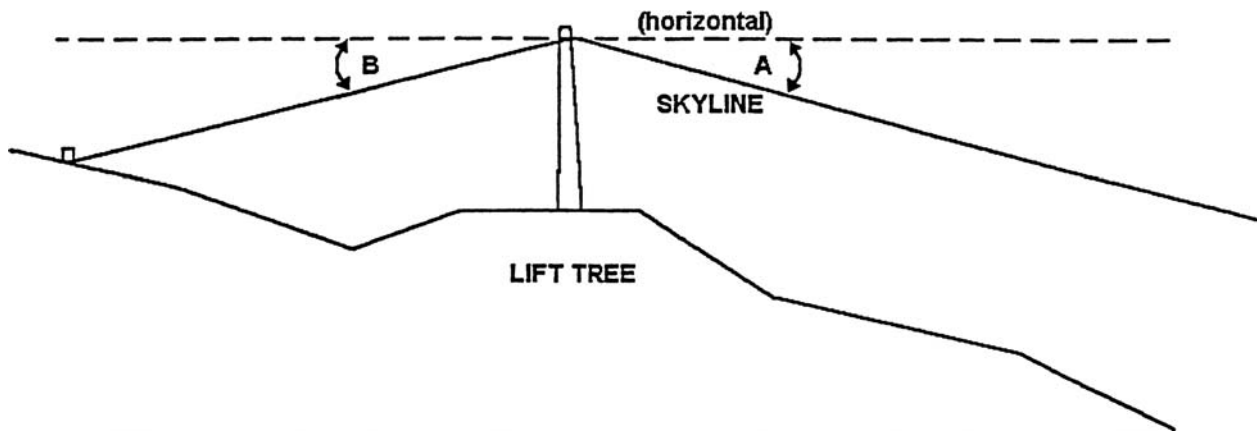


Figure 17: Positioning Guylines in Front of Tree

**MAXIMUM ANGLE FOR LOAD BEARING GUYLINES AND SKYLINE**

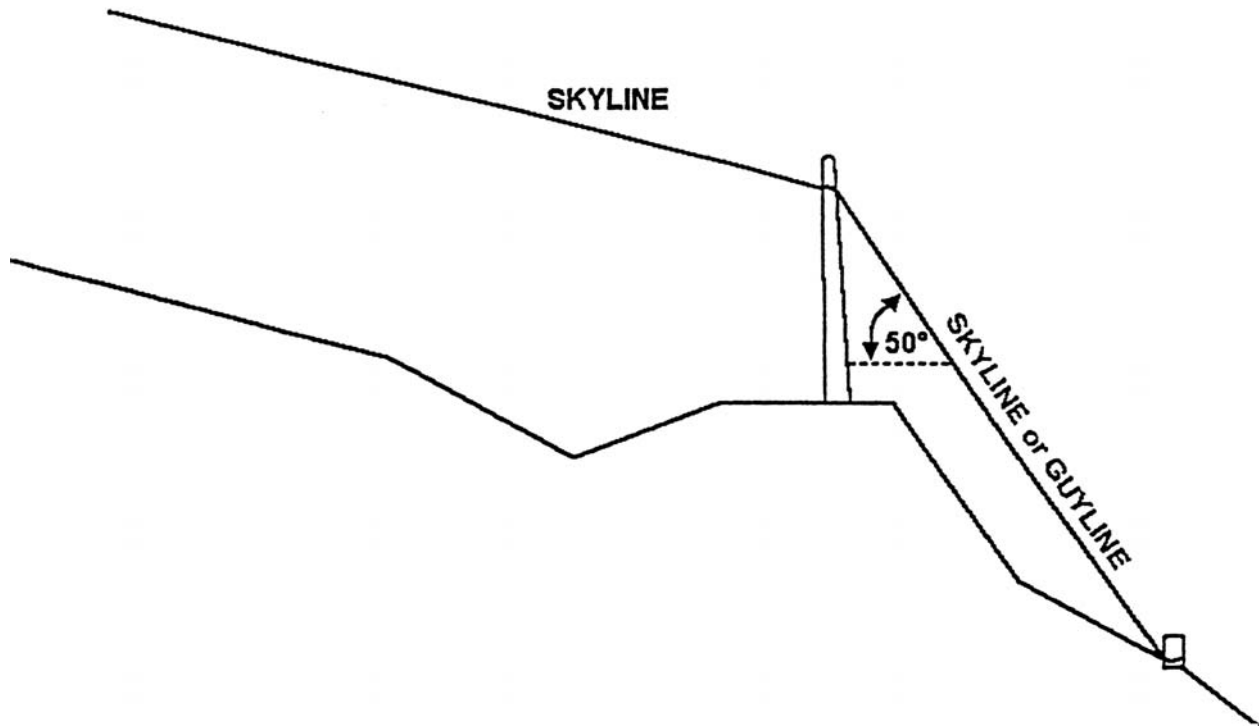


Figure 18: Maximum Angle for Load Bearing Guylines and Skyline

### 4 GUYLINE CASE – TAIL/LIFT TREE GUYING

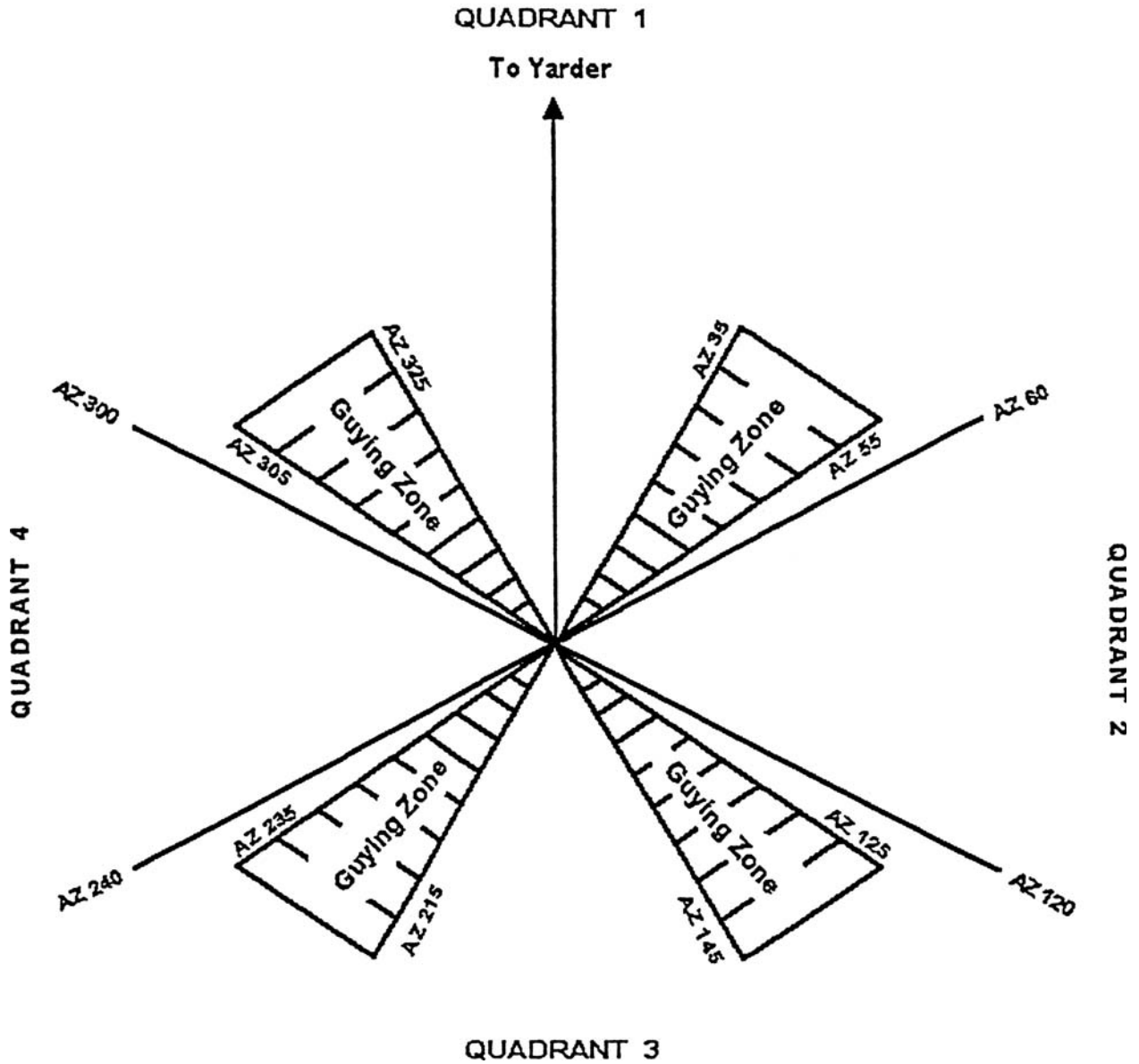


Figure 19: 4 Guyline Case - Tail/Lift Tree Guying

## 2 GUYLINE CASE TAIL/LIFT TREE GUYING

(gravity outhaul, non-slackpulling carriage)

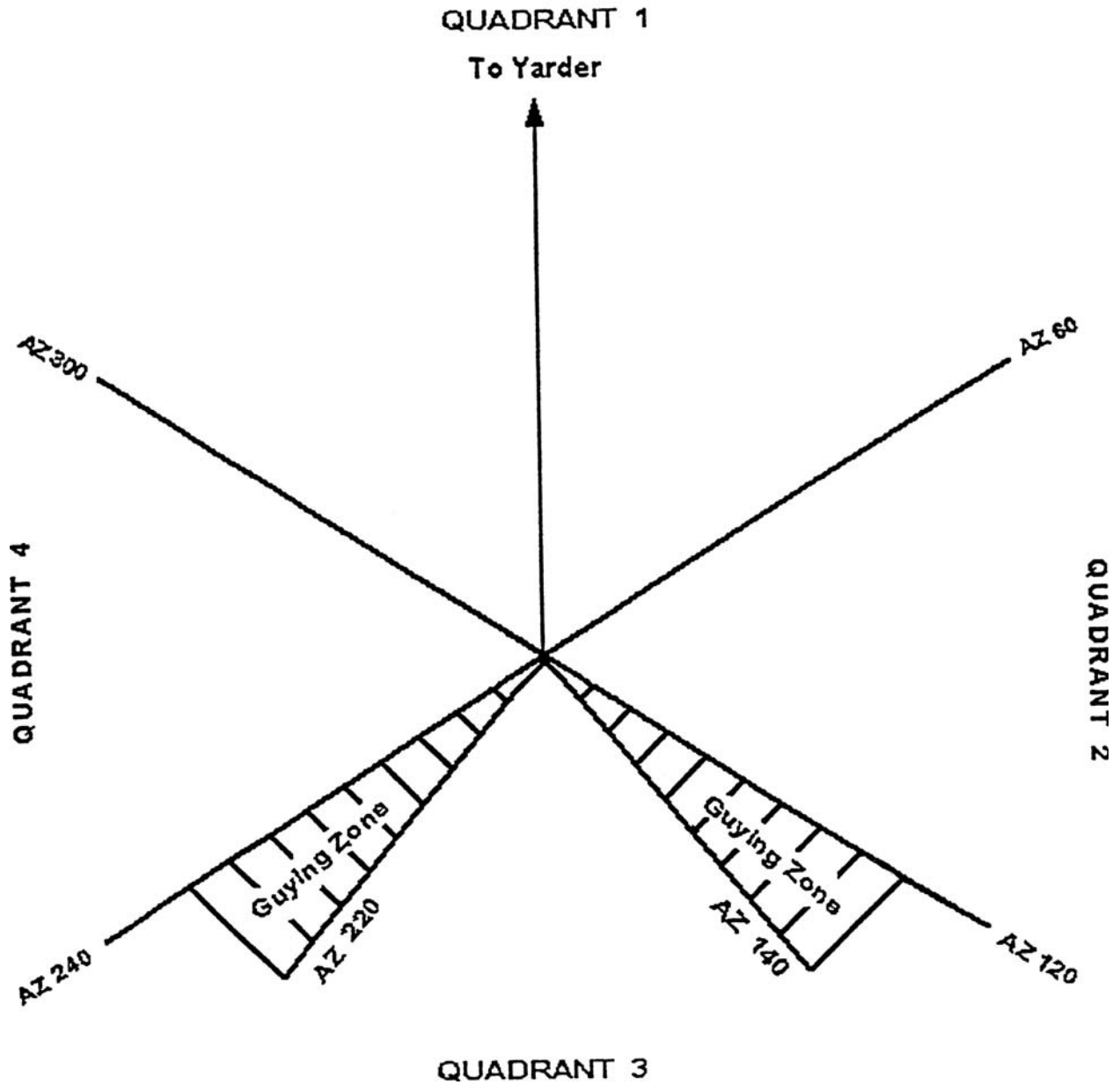


Figure 20: 2 Guyline Case - Tail/Lift Tree Guying  
(gravity outhaul, nonslackpulling carriage)

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

**WAC 296-54-563 Guying tail/lift trees.** (1) Whenever a tail/lift tree is within reach of the work area and the rigging is placed on the tail/lift tree at a height greater than five times the tree diameter (dbh), at least two guylines must be used unless tree size and strength and rigging position eliminate the need for guylines or employees must be in the clear before the go-ahead signal is given.

(2) Guylines on tail/lift trees must not be anchored to standing trees unless:

(a) There is no danger that the guyline anchor tree will enter the work area;

(b) The guyline anchor tree is properly tied back; or

(c) Employees are in the clear of the guyline anchor tree(s) before the go-ahead signal is given.

(3) When guylines are required, they must be positioned according to Figure 16: Positioning Guylines in Back of Tree and Figure 19: 4 Guyline Case - Tail/Lift Tree Guying as follows:

(a) When the angle between the horizontal and skyline coming into the tree (angle A in Figure 16) is less than the angle between the horizontal and the skyline leaving the tree towards the anchor point (angle B in Figure 16), the guylines must be in back of the tail/lift tree as specified in Figure 19.

(b) If angle A is greater than angle B, then the guys must be placed in front of the tail/lift tree. This situation usually occurs when a tail/lift tree is used during downhill yarding as shown ((~~below~~) above). Placing the guys on the uphill side only helps to pull the tail/lift tree over uphill.

(c) If a suitable anchor is not available within a specified shaded zone, two guylines may be used instead of one guyline, provided a guyline is placed on either side of and as near as possible to the affected shaded zone.

(4) Tail/lift trees must be supported by additional guylines if necessary, to ensure the stability of the tree.

(5) Guylines for tail/lift trees may be made of synthetic material and must be used according to the manufacturer's recommendation.

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

**WAC 296-54-567 Rigging skylines.** (1) A skyline must not make an angle greater than fifty degrees measured from the horizontal as it leaves the tail/lift tree. (See Figure 18: Maximum Angle for Load Bearing Guylines and Skyline.)

(2) When rigged in a tail/lift tree, the skyline must be anchored no more than eight degrees offline from the rearward projection of the skyline. If a suitable anchor is not available within the specified zone and the tail/lift tree is stable, a more suitable anchor outside the zone may be used. (See Figure 23: Skyline Positioning Limits Tail/Lift Tree.)

(3) A skyline must not be considered a guyline.

(4) Extensions to skylines must be equal in breaking strength to the skyline to which they are attached and must not alter the safe capacity of the tower. In addition, the extension must be attached only by a regular long splice or by a flush pin straight side shackle connecting the two eyes.

Note: See exception in WAC 296-54-553 (4)(e).

(5) Live, running or standing skylines must be anchored by one of the following methods:

(a) Directly to a stump or suitable manufactured anchor;

(b) Directly to the base of a standing tree provided the point of attachment is no more than three feet above the ground and no part of the tree will enter the work area if pulled over;

(i) If the tree will enter a work area, it must be properly tied back; or

(ii) Employee(s) must be in the clear before the go-ahead signal is given.

(c) By passing the skyline through a jack or block hung on a tail/lift tree before being anchored.

(6) Skylines or mainlines must be secured by one of the following methods:

(a) With at least two and one-half wraps, well spiked, or properly clamped (see WAC 296-54-569 (5)(b)); or

(b) Choked by using an approved shackle over the skyline or mainline with the pin through the eye and hung in a manner to prevent excessive bite or fouling when tightened; or

(c) With an approved strap having both eyes hung in a shackle and the knockout pin or safety pin through the eye of the skyline or mainline.

(7) Attaching the end of the skyline or slackline to the base of the rigged tail/lift tree is prohibited.

SKYLINE POSITIONING LIMITS TAIL/LIFT TREE

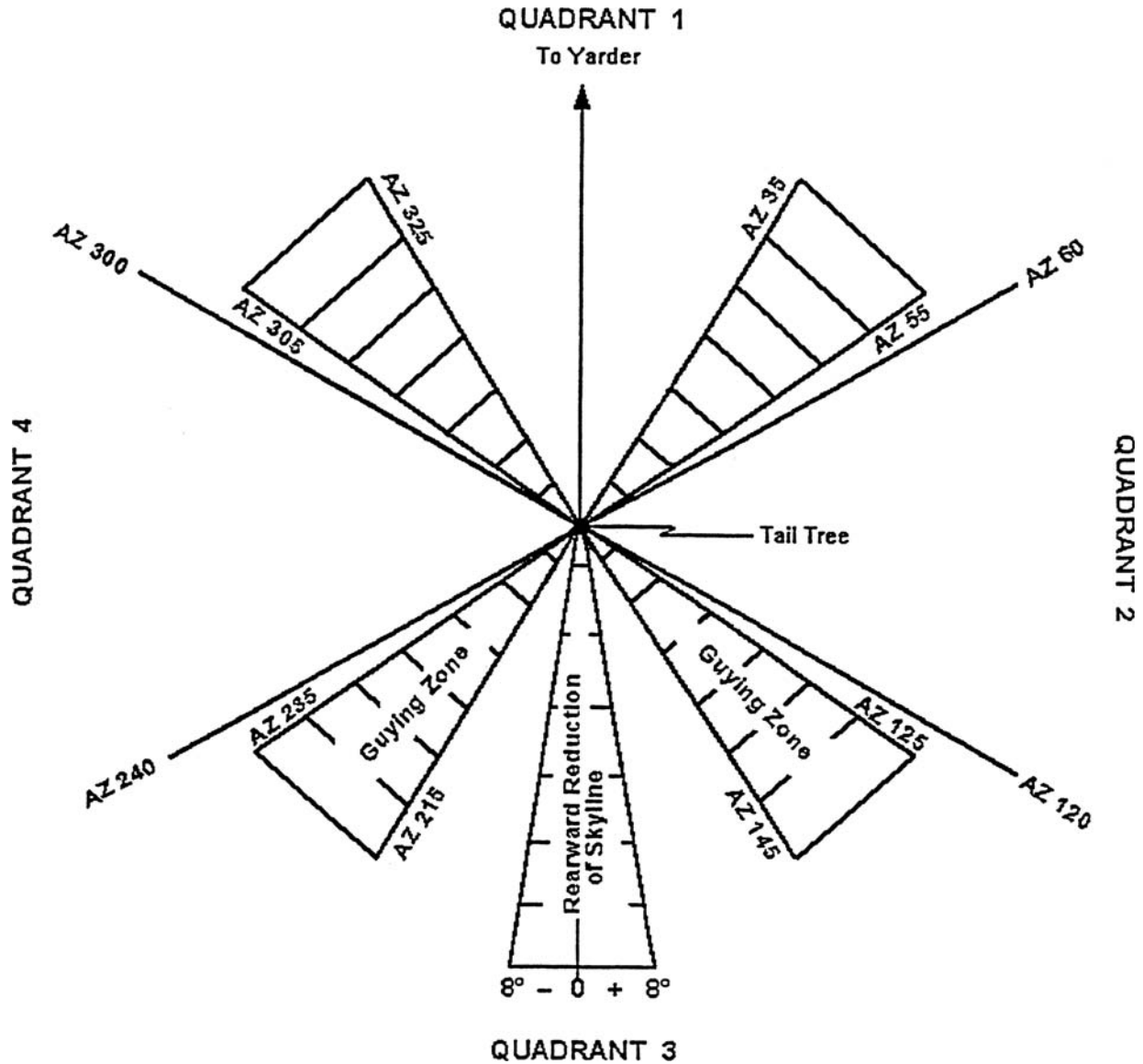


Figure 23: Skyline Positioning Limits Tail/Lift Tree

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

**WAC 296-54-569 Anchoring.** (1) Stumps used to anchor guylines and skylines must be carefully chosen for position, height, and strength. When necessary, stump anchors must be tied back to distribute the load.

(2) Stump anchors, when spiked, must be barked where attachments are to be made.

(3) Stump anchors must be adequately notched to keep the line in place and not adversely affect the stump strength.

(4) Employees must not stand close to the stump or tree or in the bight of lines as the guyline or wraps are being tightened.

(5) When spikes or cable clamps are used, guylines or skylines must be anchored with at least two and one-half wraps around the stumps. Wraps must:

(a) Be well secured with at least eight spikes or six staples in sound wood on the first and last wrap; or

(b) Have the end of the line secured with two wire rope clips on lines up to one inch diameter and three wire rope clips on lines one inch diameter and over.

(6) Properly installed deadman anchors are permitted. Guylines must not be directly attached to deadman anchors. Suitable straps or equally effective means must be used.

(7) ~~((Guylines of portable spars, wood spars or towers must not be anchored to standing trees if the unit is used as a head tree, except as specified in subsection (8) of this section.~~

~~(8) In special cases such as hanging on foreign ownership or in cable thinning operation where frequent moves make the retrieval of fell guyline trees difficult, the following will apply:~~

~~(a) Standing trees within reach of a work area or haul road may be used provided:~~

- ~~(i) They are solid;~~
- ~~(ii) Have a sound undisturbed root system;~~
- ~~(iii) If fell, would be suitable for a guyline stump or tailhold as required in subsection (1) of this section; and~~
- ~~(iv) Are properly tied back to distribute the load; or~~

~~(b) Guyline and/or tailhold anchor trees, when located so they will not fall into the work area or haul road, need not be tied back if stable.~~

~~Note: Under no circumstances must an employer accept a requirement, or be required to use standing trees to anchor guylines.~~

~~(9)) When a standing tree is used as an anchor for guylines of portable spars, wood spars or towers:~~

~~(a) The tree must be properly tied back if it is within reach of a work area, landing area or haul road;~~

~~(b) The tree must be carefully chosen for strength;~~

~~(c) The line or strap must be attached to the base of the tree; and~~

~~(d) The tree must be adequately notched.~~

~~Note: The depth of the notch should not be any deeper than what is necessary to keep the line/strap from sliding up the tree.~~

~~(8) Rock bolt anchors must be grouted, installed, tested, and maintained according to the rock bolt manufacturer's recommendations.~~

~~((10)) (9) Anchors must be regularly inspected while the logging operation is in progress. Insecure or hazardous anchors must be corrected immediately.~~

~~((11)) (10) Artificial earth anchors must be installed and used according to their design specifications and manufacturer's recommendations.~~

~~((12)) (11) Mobile equipment may be used to anchor skylines, running lines and guylines, provided the weight of the machine or other methods are used to ensure machine stability for all applied loads.~~



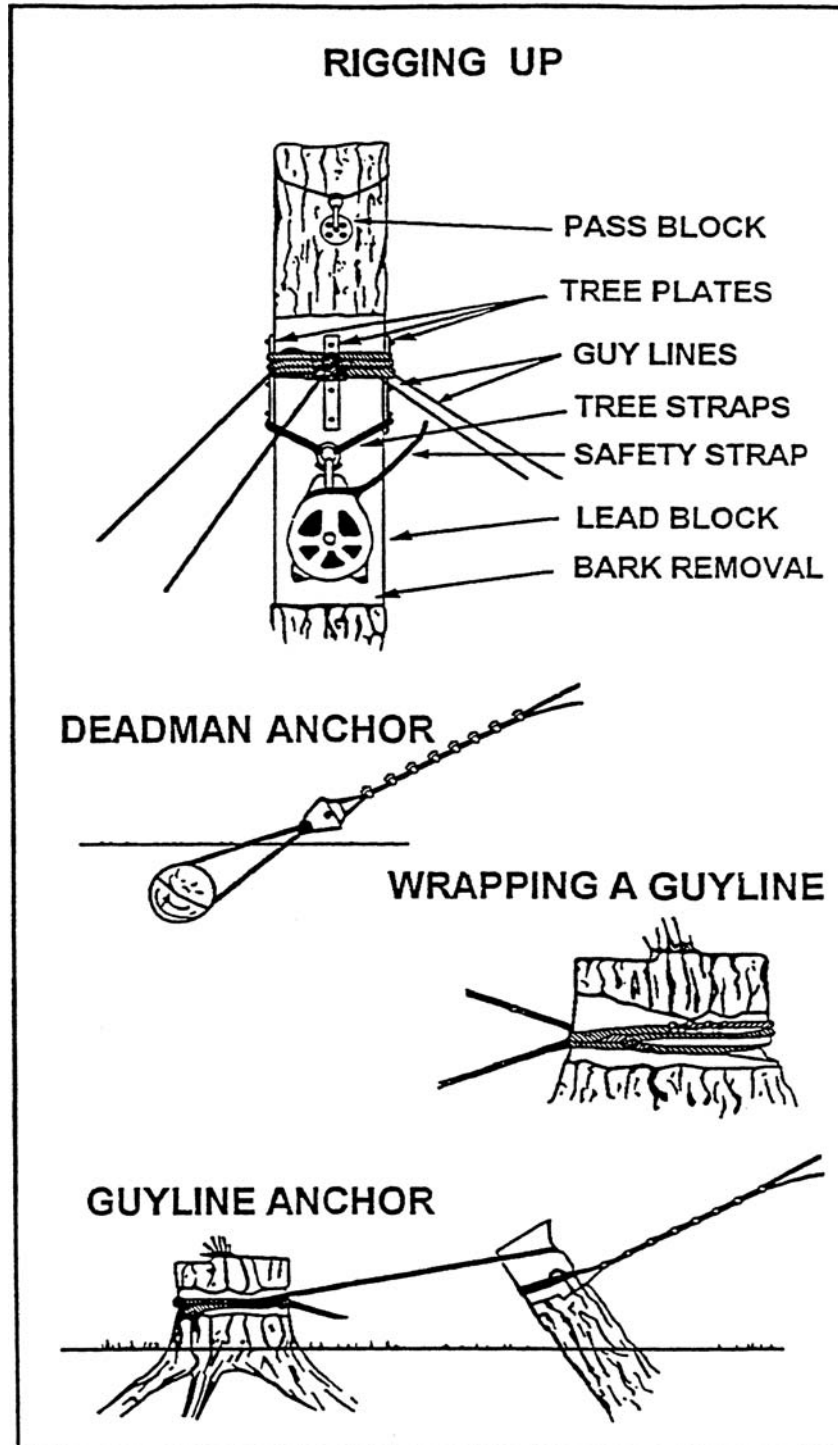


Figure 24: Rigging Illustrations

AMENDATORY SECTION (Amending WSR 06-07-142, filed 3/21/06, effective 5/1/06)

**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.

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

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

(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.

(7) ~~(The employer)~~ You 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.

(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 (7) of this section, the size of the rigging must be increased accordingly so that it will safely withstand the increased strains.

(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.

(10) Horns and travel alarms, which are part of the machine's original equipment, must be maintained in serviceable condition.

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

~~((11))~~ (12) 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.

~~((12))~~ (13) 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.

~~((13))~~ (14) Loads must not exceed the rated capacity of the pallet, trailer, or other carrier.

~~((14))~~ (15) Boom-type logging machines must have a boom stop to prevent over-topping of the boom.

~~((15))~~ (16) 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.

~~((16))~~ (17) Logging machine sleds or bases must be strong enough to withstand any stresses imposed upon them.

~~((17))~~ (18) Stationary logging machines must be securely anchored or otherwise stabilized to prevent unintended movement while yarding or skidding.

~~((18))~~ (19) Logging machines and their components must be securely anchored to their bases.

~~((19))~~ (20) Logging machines must be kept free of flammable waste materials and any materials that might contribute to slipping, tripping or falling.

~~((20))~~ (21) 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.

~~((21))~~ (22) 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: Cable yarders manufactured before July 1, 1980 are not required to have two means of exit.

~~((22))~~ (23) 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.

~~((23))~~ (24) 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.

~~((24))~~ (25) 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.

~~((25))~~ (26) After adjustments or repairs are made, logging machines must not be operated until all guards are reinstalled, safety devices reactivated, and maintenance equipment removed.

~~((26))~~ (27) Fairleads must be properly aligned at all times and designed to prevent line damage.

~~((27))~~ (28) Employee(s) 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.

~~((28))~~ (29) Riding on arches, reaches or turn of logs is prohibited.

~~((29))~~ (30) Tractors, skidders, arches, or logs being yarded by them must not run over or rub against anchored lines, tailhold stumps, or other rigging.

~~((30))~~ (31) 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.

~~((31))~~ (32) Wire rope must be wound on drum spools in a manner to prevent excessive wear, kinking, chafing or fouling.

~~((32))~~ (33) Guylines required in rigging spars or towers must be evenly spooled to prevent fouling.

~~((33))~~ (34) 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.

~~((34))~~ (35) 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.

~~((35))~~ (36) All forklift type log handling machines must be equipped with a grapple system and the arms must be closed whenever logs are being carried.

~~((36))~~ (37) 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.

~~((37))~~ (38) Loads on forklift type log handling machines must be transported as low as safely operable without obstructing visibility.

~~((38))~~ (39) Guyline drum controls and outrigger controls must be separated and clearly identified in a manner that will prevent the engaging of the wrong control.

~~((39))~~ (40) 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.

~~((40))~~ (41) 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.

~~((41))~~ (42) Grab rails must be provided and maintained in good repair on all walkways of stationary units elevated more than four feet.

~~((42))~~ (43) 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.

~~((43))~~ (44) Timbers used for masts or booms ~~((shall))~~ must 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 296-54-57350 Logging machines—Tractors and skidders.** (1) Operators must operate and control their machines in a safe manner and avoid operations in areas where machine stability may not be maintained.

(2) Winch lines on logging tractors or skidders must be attached to the drums with a breakaway device.

(3) Arches must be equipped with line guards.

(4) A turnaround, if needed for skidders, must be provided on all skidding roads every 500 feet.

(5) The following safe work procedures must be followed:

(a) Lines must not be allowed to trail behind the tractor or skidder where it may hang up and snap forward.

(b) Each machine must be positioned during winching so the machine and winch are operated within their design limits.

(c) Logs/trees must be ~~((choked))~~ choked near the ends of the logs/trees whenever possible and safely positioned before traveling.

(d) Before climbing or descending grades, the proper gear must be selected to allow the engine to govern the tractor speed.

(e) On side hills, abrupt turns uphill must be avoided. The tractor or skidder must be backed downhill first then turned uphill. The turn may be slacked off as necessary to permit this maneuver.

(f) Tractor or skidder speed must be adjusted to the circumstances prevailing. Excessive or uncontrolled speed must be avoided.

(6) Where tractor and skidder operators or helpers, because of the nature of their work duties, are required to wear calk soled footwear, the decks and operating foot controls must be covered with a suitable nonslip material.

AMENDATORY SECTION (Amending WSR 06-07-142, filed 3/21/06, effective 5/1/06)

**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

faller-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 falling device, such as tree shears or faller-buncher, placed into initial service after February 9, 1995."

(7) ~~(The employer)~~ You 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) Each machine manufactured 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 least 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 296-54-575 Landing area.** (1) Unless otherwise specified, landing areas must:

(a) Be large enough that if logs are to be heeled and swung, they will not strike standing timber, rigging, or other equipment or objects;

(b) Be large and level enough to land and deck the logs in the turns so that they will not slide or roll in the direction of employees or equipment. This is not intended to restrict the yarding and/or loading of logs for pole piling or an infrequent long break or tree length, provided the log is secured before unhooking the choker;

(c) Be large enough for safe movement of all logs and machinery;

(d) ~~((Landings must))~~ Be free of root wads, limbs, tops, etc., that constitute a safety hazard; and

(e) Not have materials pushed, thrown, or dumped over the edge in a manner or at a time that will endanger employees.

(2) ~~((When))~~ During roadside thinning, logs stacked on the roadside without a landing must be placed in a stable condition.

(3) During uphill yarding, the landing chute must be cleared of logs before the next turn of logs is landed unless:

(a) The logs are fully contained in the landing chute; or

(b) There is no possibility that employees working below the landing may be struck by rolling objects coming off the landing.

(4) Roadside or continuous landings must be large and wide enough to safely operate and maintain the yarding or loading equipment. Outrigger pads, tracks or wheels must be on firm, stable ground.

(5) In logging operations where the yarder is set up in the haul road and logs are landed on the slope below the road, the following must apply:

(a) If the landing chute slope is twenty percent or less, logs may be landed and decked in the chute provided the logs can be left in a stable position;

(b) If the landing chute slope exceeds twenty percent, decking is not permitted in the chute if a chaser is required to unhook the rigging from the logs or if employees are working below the landing chute and are exposed to rolling or sliding logs;

(c) If logs are to be decked below the road, the logs must be effectively secured from rolling or sliding down the hill; or

(d) If the landing process or weather conditions (rain, snow, ice, mud) prevent the required log stability and exposes employees to the hazard of rolling or sliding logs, the logs must be decked at a different location.

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

**WAC 296-54-577 Yarding, skidding, landing.** (1) Running lines must be arranged so that employees are not required to work in the bight of the line. When employees must work in the bight, employees must move out of the bight of the lines before the signal to move the turn is given, or be in a position where they are protected by standing timber, terrain, or other objects large enough to ensure their safety.

(2) Choker holes must be dug from the uphill side of the log when there is danger of the log rolling or moving.

(3) Chokers must be placed near the end of the log/tree whenever possible.

EXCEPTION: When long logs or tree-length logs are being yarded and a long end is necessary to safely land the logs/trees on the available landing space.

(4) Employees must be in the clear of logs, root wads, chunks, hazardous trees, rolling material and rigging before the go-ahead signal is given and must stay in the clear until all rigging movement has stopped.

(5) Employees must move away from the turn so as to be above or behind the turn and in the clear. They must remain on their feet and face the turn before the go-ahead signal is given.

(6) All employees must remain away from rigging that is stopped at a hangup, until the rigging has been slacked to reduce the hazard.

(7) Chokers must not be hooked or unhooked until all rigging is stopped completely.

(8) Logs must not be landed until all employees, trucks or equipment are in the clear.

(9) Logs must not accumulate in the landing chute to the point where they become a hazard to the landing personnel.

(10) Logs must be stable and secure before being approached by employees and before chokers are unhooked.

(11) An employee must not buck, limb or trim logs from a position that will expose the employee to contact with moving lines.

(12) Logs must not be placed in, moved about, or removed from the bucking area of the landing unless all employees are in the clear.

(13) An unimpaired horizontal clearance of at least three feet must be maintained between the rotating superstructure of any logging machine working on a landing and any adjacent object or surface. If this clearance cannot be maintained, a safety zone barrier must be used to isolate the hazardous area. The safety zone barrier may be a warning line constructed of rope or ribbon, supported on stanchions.

(14) ~~((("DANGER 36 INCH CLEARANCE" must be marked near the rear of the machine.~~

~~((15)))~~ Employees must not approach a machine's working circle until the operator has acknowledged that it is safe to do so.

~~((16)))~~ (15) Whenever possible, chokers must be set from the uphill side of a log. Persons must not be on the lower side of a log which appears to be unstable or likely to roll.

~~((17)))~~ (16) When yarding during the hours of darkness, the area must be lighted enough to allow employees to safely perform their duties. The source of light must be located and directed to create minimum shadows and glare. If using a portable tailhold, lights must be directed on equipment to allow the person to visually determine that the tailhold equipment remains stabilized.

~~((18)))~~ (17) Each yarded tree/log must be placed in a location that does not create a hazard for an employee and in an orderly manner so that the trees/logs are stable before bucking or limbing is commenced.

~~((19)))~~ (18) When using a yarder, loader or skidding machine, the location of the machine or position of the yarder must be such that the operator will not be endangered by incoming logs or debris.

~~((20))~~ (19) Employee(s) must be assigned to flag on roads or provide other equivalent protection where hazardous conditions are created from logging such as, but not limited to:

(a) Running wire rope lines or rigging across road grades, excluding guylines and standing skylines if lines remain a safe distance above the road to allow a vehicle to pass under; or

(b) The movement of logs, chunks, or debris across or suspended over road grades.

EXCEPTION: Where there is no through traffic, such as on a dead end road or where the property owner's permission or proper authority is granted to close a section of road, warning signs and barricades may be used instead of flagger(s).

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

**WAC 296-54-58130 Helicopter logging—Fueling area.** (1) Separate areas must be designated for landing logs and for fueling helicopter(s).

(2) Refueling any helicopter with either aviation gasoline or Jet B (turbine) type fuel while the engine is running is prohibited.

(3) Helicopters using Jet A (turbine-kerosene) type fuel may be refueled with engines running provided the following criteria are met:

(a) Unauthorized employees must not be allowed within fifty feet of the refueling operation or fueling equipment; and

(b) Fire extinguishers must be strategically located in the fueling area and must have a combined rating of at least 20A:120BC.

(4) All fueling employees must be thoroughly trained in the refueling operation and in the use of the available fire extinguishing equipment they may be expected to use.

(5) The following are prohibited within fifty feet of the fueling area or fueling equipment:

- ((\*) (a) Smoking;
- ((\*) (b) Open flames;
- ((\*) (c) Exposed flame heaters;
- ((\*) (d) Flare pots; and
- ((\*) (e) Open flame lights.

EXCEPTION: Aircraft preheaters are not prohibited. However, no fueling may be performed while the heaters are in operation.

(6) The fueling area must be posted with "no smoking" signs.

(7) Because there are many causes of static electricity, fueling employees must assume that it is present at all times. Before starting refueling operations, the fueling equipment and the helicopter must be bonded and the fueling nozzle must be electrically bonded to the helicopter. Using conductive hose is not an acceptable method of bonding. All grounding and bonding connections must be electrically and mechanically firm to clean unpainted metal parts.

(8) To control spills, fuel must be pumped either by hand or power; pouring or gravity flow is prohibited. Self-closing nozzles or deadman controls must be used and must not be blocked open. Nozzles must not be dragged along the ground.

(9) In case of a spill, the fueling operation must be immediately stopped until the person in charge determines that it is safe to resume.

(10) Helicopters with their engines stopped while being refueled with aviation gasoline or Jet B (turbine) type fuel, must comply with subsection (4) through (9) of this section.

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

**WAC 296-54-583 Loading logs.** (1) A positive means of communication must be established and used between the truck driver and the employee loading logs to control the movement of the log truck being loaded.

(2) ~~((Employees must not be))~~ No one is permitted alongside or underneath trucks being loaded or on the load until communication has been established with the loading machine operator and the truck driver, and the employee is assured that it is safe to be there.

(3) Logs being moved or loaded must not pass over any employee or an occupied vehicle, equipment or truck cab.

(4) Standing between a truck cab and a log being loaded or unloaded is prohibited.

(5) Logs must not be lowered to the bunk while bunk or block adjustments are being made or until the employee making these adjustments is in the clear.

(6) Standing underneath a suspended trailer or its reach is prohibited.

(7) Loads must be built up or loaded in a manner to be stable without the use of wrappers. Wrappers are considered only as precautionary measures to ensure stability of the load.

(8) Where there is a danger of the grapple slipping off of logs, straps must be used in loading logs that are too large for the grapple or tongs and must be hung in both eyes.

(9) Logs must be loaded in a manner to prevent excessive strain on wrappers, binders, bunk stakes, bunk chains or straps.

(10) Logs in any tier or layer unsecured by stakes or cheese blocks must be well saddled and have their diameter centers inside the diameter centers of the outer logs of the next lower tier or layer.

(11) Bunk and wing logs must extend at least twelve inches beyond the front and rear bunks or stakes. When fixed bunks are used, logs must extend at least six inches beyond the front and rear bunk or stake.

(12) Double-ended logs above the stakes must not be loaded on the side of the load from which the binders or wrappers are intended to be released.

(13) Logs must be loaded so that no more than one-third of the weight of any log extends beyond the end of the logs or bunk supporting it.

(14) Logs must be loaded in a manner that will not impair full and free movement of the truck.

(15) Each log not contained within the stakes must be secured with at least two wrappers before the truck leaves the vicinity of the landing/loading area.

(16) All of the required wrappers must be placed on the load within sight of the landing/loading area so immediate emergency assistance can be given if necessary.

(17) Loads or logs must not be moved or shifted while binders are being applied or adjusted.

(18) The transport vehicle must be positioned to provide working clearance between the vehicle and the deck.

(19) All limbs or knots that would project beyond the stakes or legal height must be removed before the log is loaded on the car or truck.

Note: This does not apply to incidental limbs/knots placed on loads during the normal loading process.

(20) Power saws must not be operated on top of loaded logging trucks.

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

**WAC 296-54-589 Log trucks—General.** (1) Prior to use, the operator must make a complete daily inspection of the truck and trailer with particular attention to:

- ((★) (a) Steering apparatus;
- ((★) (b) Lights and reflectors;
- ((★) (c) Brake boosters;
- ((★) (d) Brake hoses and connections;
- ((★) (e) Reaches;
- ((★) (f) Hitches (couplings);
- ((★) (g) Bunks;
- ((★) (h) Stakes;
- ((★) (i) Bunk blocks.

The brakes must be tested before and after movement of the vehicle. The operator must submit a written list of necessary repairs to a person designated by the employer.

(2) Any defective parts that would make the vehicle unsafe to operate, must be replaced or repaired before the vehicle is placed in service.

(3) Motor vehicles used on roads not under the control of the state department of transportation, counties, or cities must be equipped with accessories necessary for a safe operation including:

- (a) Operable head lamps;
- (b) At least two tail lamps and brake lamps that emit a red light plainly visible from a distance of one thousand feet to the rear; and
- (c) Two reflectors visible at night from three hundred fifty feet when directly in front of properly adjusted motor vehicle head lamps.

(4) The driver must do everything reasonably possible to keep the truck under control at all times and must not operate in excess of a speed at which the driver can stop the truck in one-half the visible distance.

(5) The area between the truck frame members, extending from the cab rearward as far as necessary to provide a safe work area, must be covered with suitable nonslip type material.

(6) Log trucks that have logs scaled at stations must have a platform on each side extending outward from the frame members at least eighteen inches, and must be eighteen inches long or as near to eighteen inches as the design of the truck permits. The treading surface of the platforms must be of nonslip material and the platform must be able to safely support a five hundred pound load.

(7) To protect the operator of vehicles from loads, there must be a substantial bulkhead behind the cab that extends up to the height of the cab.

(8) When at the dump or reload or where logs are scaled or branded on the truck, the logs must be scaled or branded before the binders are released.

(9) All vehicles, where vision of the operator in the direction of travel is impaired by the load or vehicle, must be moved only on a signal from a worker who has a clear view in the direction in which the vehicle is to be moved.

(10) Where a bridge or other roadway structure is posted with a load limit sign, log truck drivers or operators of other heavy equipment are prohibited from driving a load in excess of the posted limit over such a structure.

(11) All passengers must ride in the cab of the log truck.

(12) All trucks must keep to the right side of the road except where the road is plainly and adequately posted for left side travel.

(13) A method must be provided to ensure that the trailer will remain mounted on the truck while driving on highways or logging roads.

(14) When trucks are towed on any road, the person guiding the vehicle being towed must, by prearranged signals, govern the speed of travel. Vehicles must be towed at a reasonable speed and in a prudent manner. A tow cable or chain over fifteen feet in length must have a white flag attached at the approximate center, however, it is recommended that a rigid tow bar be used for this purpose.

(15) All rubber-tired motor vehicles must be equipped with fenders. Mud flaps may be used instead of fenders whenever the motor vehicle is not designed for fenders.

(16) All trucks must be equipped with doors with operable latches, or a safety bar or strap.

(17) Log trucks must not approach a landing while there is danger from incoming logs.

(18) While en route, the operator must check and tighten the wrappers/binders whenever there is reason to believe that the wrappers/binders have loosened or the load has shifted.

(19) Persons must not enter the area below a suspended load of logs.

(20) All trucks must be equipped with a means to protect the operator from inclement weather.

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

**WAC 296-54-58950 Log trucks—Wrappers and binders.** (1) On log trucks equipped with stakes, the following requirements must apply:

(a) In the hauling of a one log load, one wrapper chain or cable must be required and secured to the rear bunk. The log must be properly blocked or secured in a manner which will prevent it from rolling or shifting. An additional wrapper secured to the front bunk is optional.

(b) In the hauling of two log loads, not less than two wrapper chains or cables must be used to secure the load. The logs must be properly blocked to prevent them from rolling or shifting.

(c) On loads consisting of three or four logs not over forty-four feet in length, the load must be secured by not less

than two properly spaced wrapper chains or cables. Ends of short logs not secured by such wrappers must be secured with extra wrappers. If any log is over forty-four feet in length, the load must be secured by not less than three properly spaced wrappers.

(d) Loads consisting of five or more logs(=):

(i) When the logs are all seventeen feet or less in length, the load must be secured by not less than two properly spaced wrappers. (Loads consisting of five or more logs, when any log is over seventeen feet in length, must be secured by not less than three properly spaced wrappers.)

(ii) When any log is over seventeen feet in length, the load must be secured by not less than three properly spaced wrappers. Log(s) loaded on top or in outside saddles of a load must not be transported unless secured by at least two wrapper chains or cables, one of which must be placed near each end of such log.

(2) On log trucks equipped with chock blocks the following requirements must apply:

(a) In the hauling of a one log load, one wrapper chain or cable shall be required and secured to the rear bunk and the log must be properly blocked in a manner to prevent it from rolling or shifting.

(b) One additional wrapper chain or cable shall be required on log trucks using chock blocks over and above the requirements in subsection (1)(c) and (d) of this section.

(3) In the case of short logs loaded crosswise, the following method of securing the load must be used if the truck or trailer is not provided with solid ends of a height sufficient to prevent any log in the load from rolling off:

Not less than two chock blocks must be used at each open end of the vehicle and the load must be held with at least two wrapper chains or cables. The wrappers must be firmly attached to the end of the truck or trailer. Rigid standards or stakes may be used in lieu of chock blocks but each such standard or stake must be either rigidly connected to the bed of the truck or trailer or must be placed in a tight-fitting socket at least 12 inches in depth. Other means furnishing equivalent security may be acceptable.

(4) When two wrappers are required, they must be applied within six feet of the front and rear bunks. When more than two wrappers are required, the front and back binder must be applied within six feet of the front and rear bunks.

(5) To properly secure short logs, binders must be placed near the end, not less than twelve inches from the end of the log.

(6) Log(s) loaded on top or in outside saddles of a load must not be transported unless secured by at least two wrapper chains or cables, one of which must be placed near each end of such log.

(7) All wrappers and binders must be fastened in place prior to tightening to prevent the displacement of logs on the top of the load.

(8) All wrapper chains or cables, except in the case of one log load, must entirely surround the load. This does not apply to gut-wrappers.

(9) Gut-wrappers, when used, must be adjusted so as to be tightened by, but not carry the weight of the logs above them.

~~(10) ((A warning must be given before throwing wrappers over the load and care must be taken to avoid striking other persons with the wrapper.))~~ Wrappers must not be thrown over the load until personnel are in the clear.

(11) Each log not contained within the stakes must be secured with at least two wrappers before the truck leaves the vicinity of the landing/loading area.

(12) While moving logs, poles, or log chunks within sorting or mill yards, that could roll or slide off the truck due to snow or ice conditions, or the logs or log chunks do not extend beyond the stakes, at least two wrappers and binders must be used regardless of the height of the load.

(13) Wrapper chains or cables, binders, fasteners, or attachments thereof, used for any purpose as required by these standards must have a minimum breaking strength of not less than fifteen thousand pounds and must be rigged so that it can be safely released.

Note: 3/8-inch hi-test steel chain, 7/16-inch improved plow steel wire rope of 6 x 19 or 6 x 37 construction, or materials having equivalent strength, when in compliance with the requirements herein contained, will be acceptable. (The diameter of the wire rope is immaterial as long as it meets the minimum breaking strength requirements.)

Note: Nylon straps and ratchet binders having an equivalent breaking strength may be used when securing loads on (hay rack) log hauling systems.

(14) A loaded logging truck required to have wrappers by this section, may be moved within the loading area without wrappers only if such movement does not present a hazard to workers.

(15) For the purposes of this standard, applied bundle straps or banding are not acceptable as wrappers and binders.

(16) All loose ends of wrapper chains or cables must be securely fastened so as to prevent their swinging free in a manner that will create a hazard.

(17) Binders for securing wrappers on logging trucks must be fitted with hooks of proper size and design for the wrapper chain being used.

(18) Wrappers must be removed from service when any of the following conditions exist:

- (a) Excessively worn links on chains;
- (b) Deformed or stretched chain links;
- (c) Cracked chain links; or
- (d) Frayed, stranded, knotted, or otherwise defective wire rope.

(19) Pipe extension handles (swedes) for tightening or securing binders must be no longer than thirty-six inches. Care must be taken that a sufficient amount of the pipe extends over the binder handle.

(20) Defective binders must be immediately removed from service.

Note: See Figures 25 through 35 for illustrations of placement and number of wrappers.



**Placement and Number of Wrappers  
One Log Load**

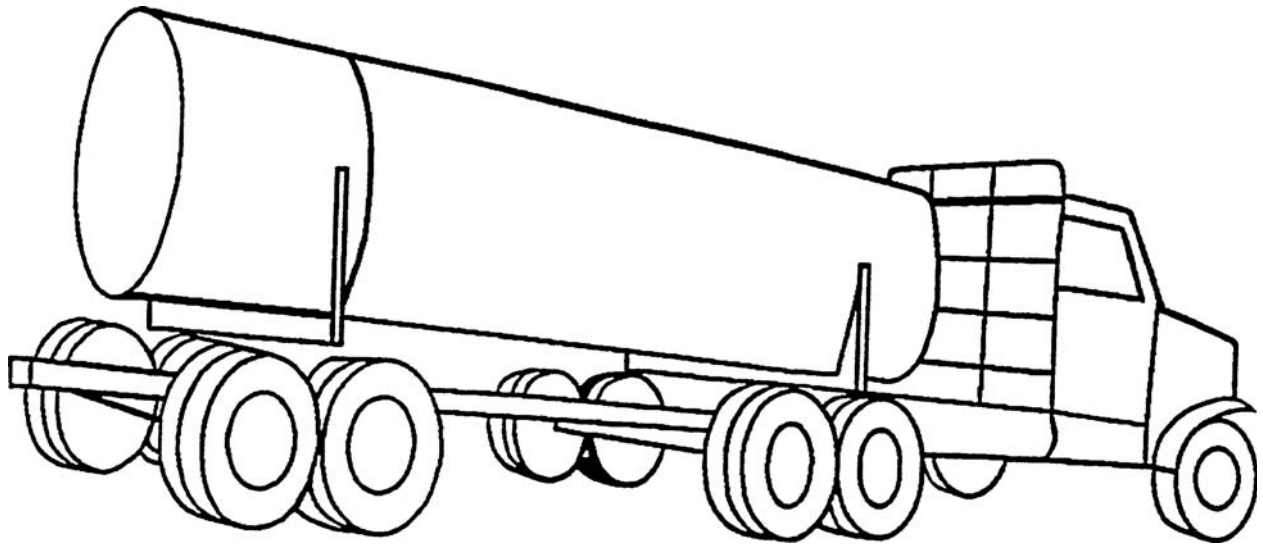


Figure 25: One Log Load

**Two Log Load**

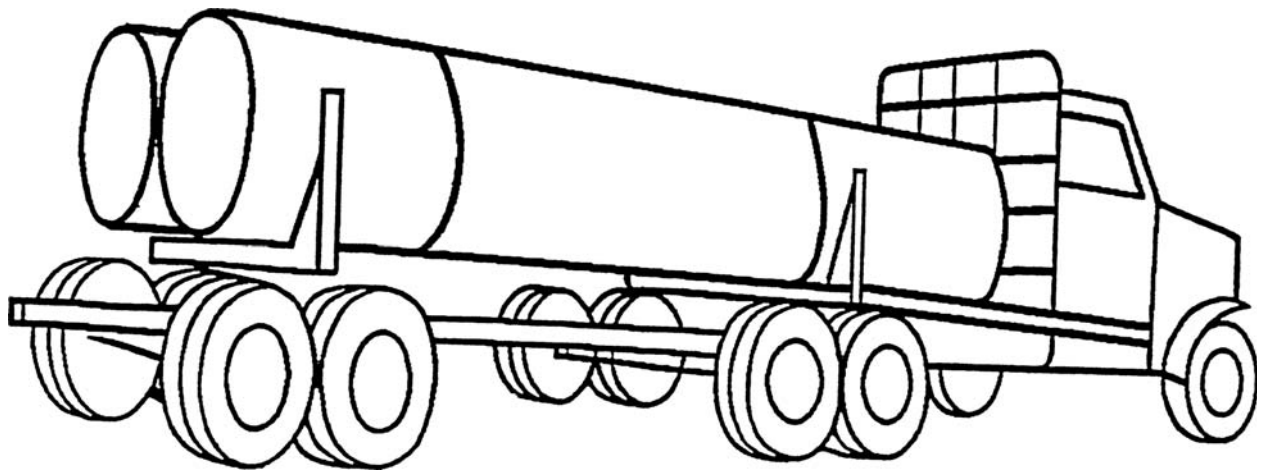


Figure 26: Two Log Load

**Three or Four Log Load 44 Ft. or Less**

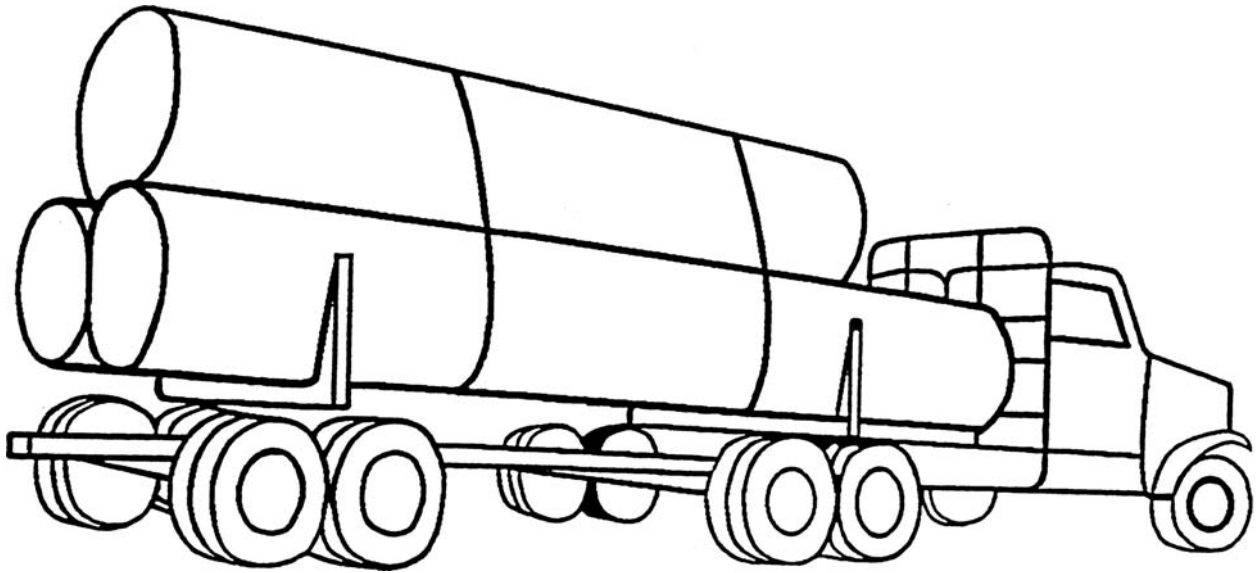


Figure 27: Three or Four Log Load 44 feet or less

**Three or Four Log Loads More Than 44 Feet**

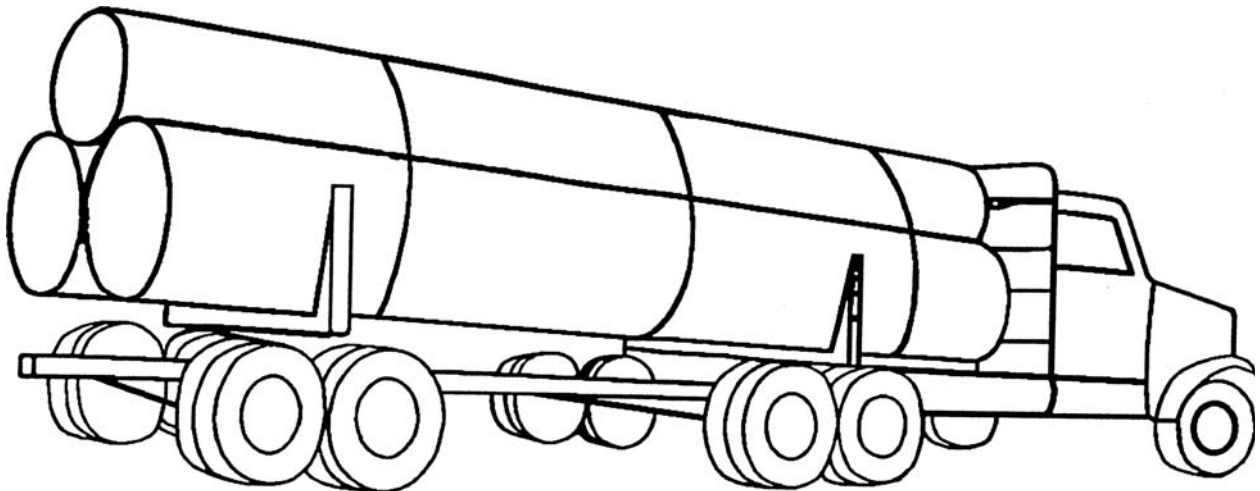


Figure 28: Three or Four Log Loads more than 44 feet

**Five or Six Log Load All Logs 17 Feet or Less**

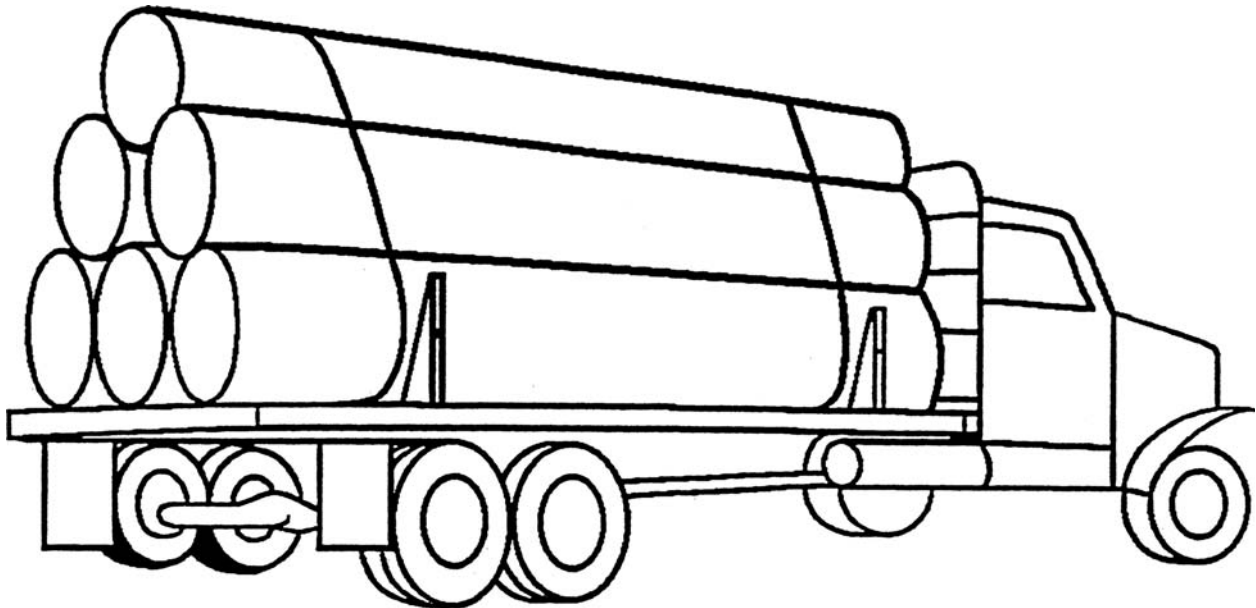


Figure 29: Five or Six Log Load All Logs 17 feet or less

**Seven or More Log Load All Logs 17 Feet or Less**

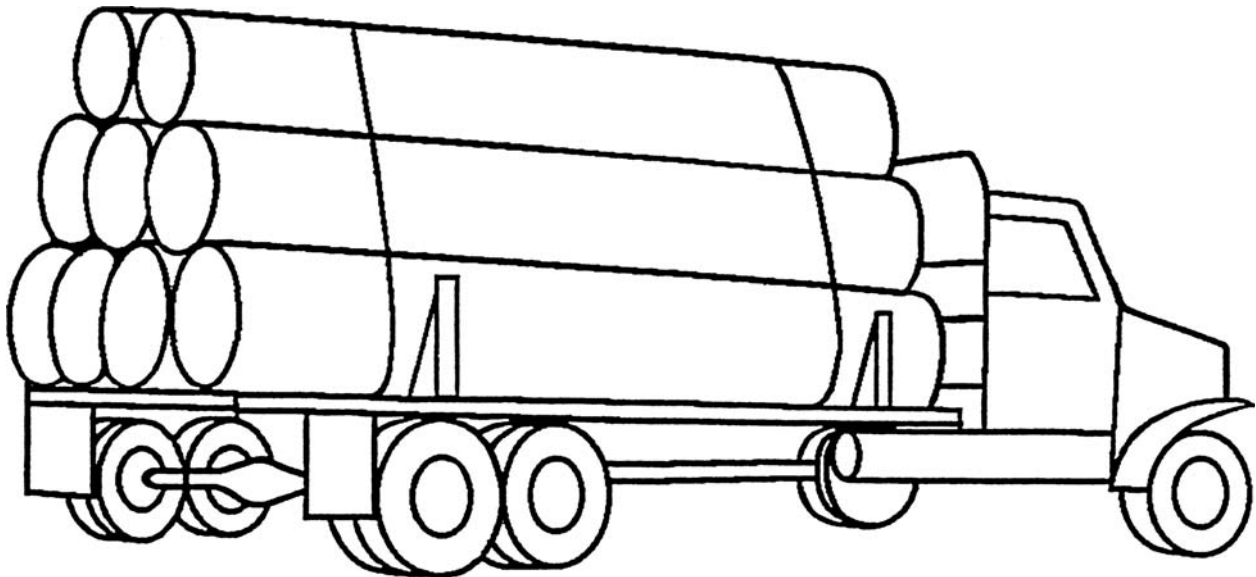


Figure 30: Seven or More Log Load all Logs 17 feet or less

**Five or More Log Load If Any Logs Are More Than 17 Feet**

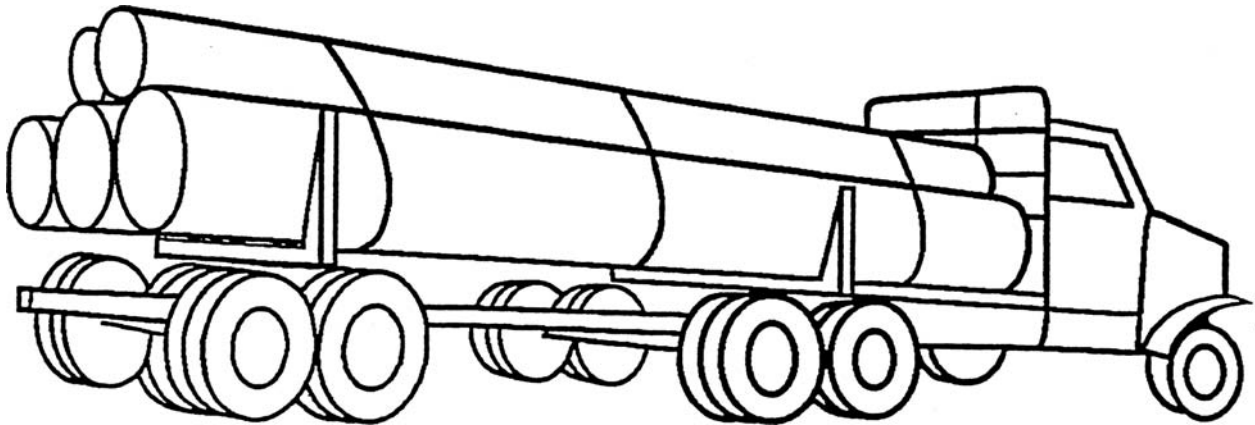


Figure 31: Five or More Log Load if any Logs are more than 17 feet

**Proper Support for Logs**

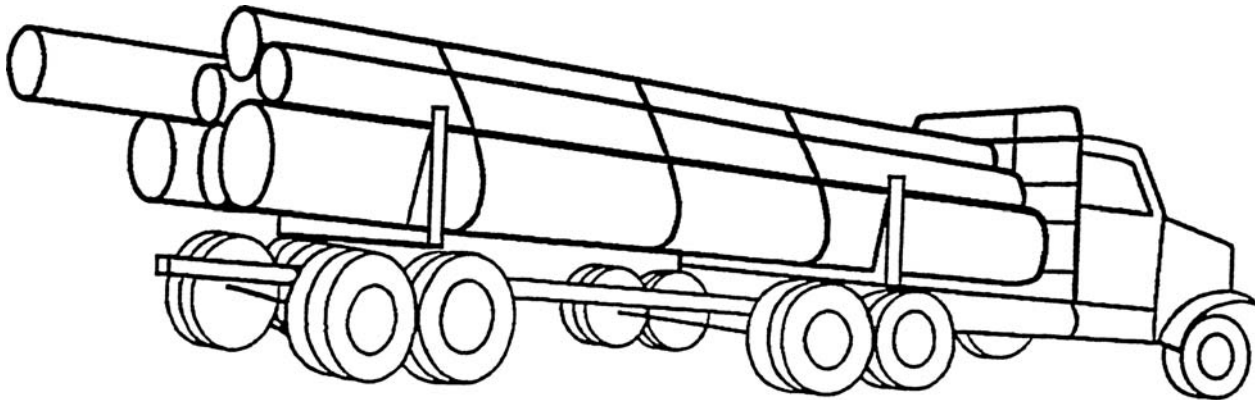


Figure 32: Proper Support for Logs

**Outside Logs or Top Logs**

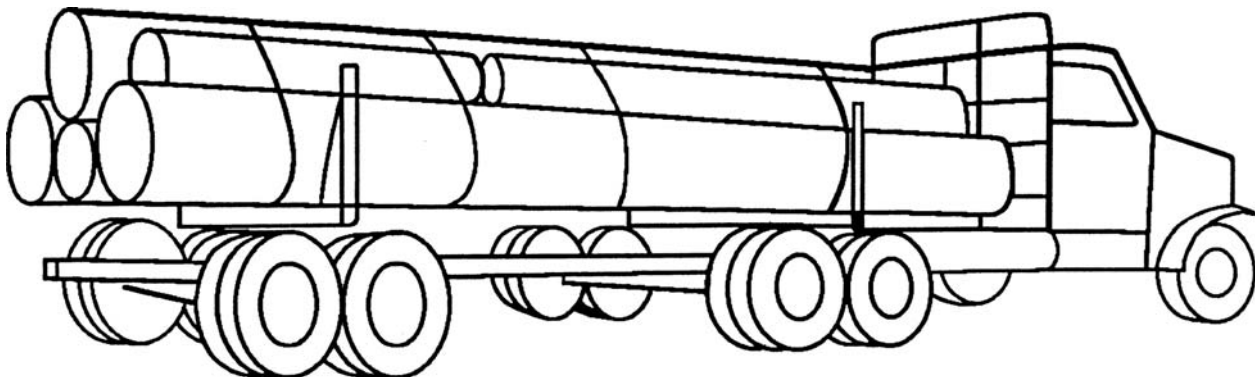


Figure 33: Outside Logs or Top Logs

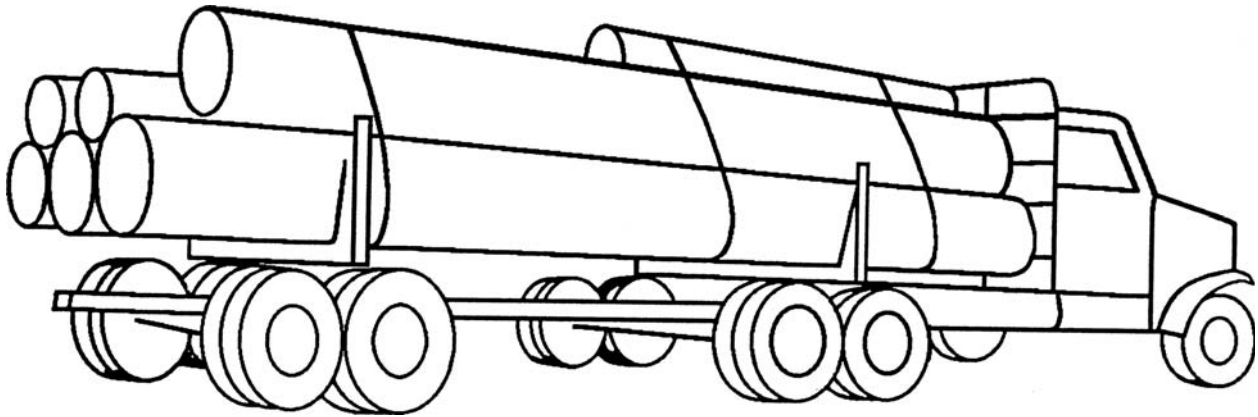
**A Wrapper Must Be Near Each Bunk**

Figure 34: A Wrapper must be near each bunk

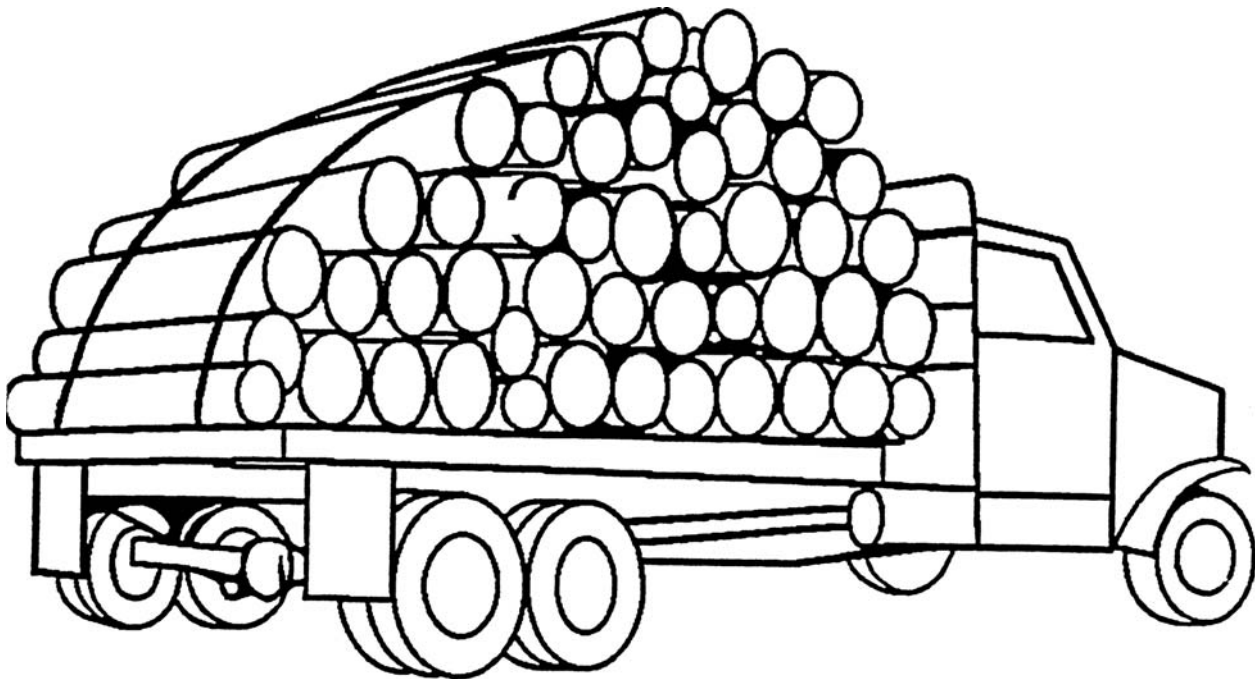
**Short Logs Loaded Crosswise**

Figure 35: Short Logs Loaded Crosswise

Note: All loads of logs on logging trucks equipped with chock blocks instead of stakes, must have at least one additional wrapper over and above the requirements for trucks equipped with stakes, except on one and two log loads and trucks with short logs loaded crosswise.

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

**WAC 296-54-591 Stationary log truck trailer loading.** (1) All loading devices must be designed, constructed and maintained so as to have a five to one safety factor for the rated load capacity.

(2) Loaders must be high and wide enough so they can safely load the maximum-sized trailers they are expected to handle without hanging up or striking the equipment.

(3) Electric-powered trailer loading devices must be equipped with a switch or device that will safely limit the upper direction of travel of the load line.

(4) Electric motors used for hoisting must be equipped with approved overload switches or breakers.

(5) Electrical switch controls must not exceed twenty-four volts. All control switches must be the momentary-contact type that require continuous manual pressure for the hoist to operate.

(6) Pendant control switches must be suspended by a chain or other suitable device that will prevent placing a strain on the electrical cable.

(7) Pendants must be installed so that the control switch does not touch the ground when retracted.

(8) All electrical equipment must be weatherproof-type or adequately protected from the weather, and must meet or exceed the requirements of the National Electrical Code as promulgated by the director of the department of labor and industries pursuant to RCW 19.28.060.

(9) Trailer loaders, except A-frames or bridge crane, must be equipped with reach guides or devices that will keep the reach in proper alignment. A tag rope or other safe guidance device must be used to guide trailers being loaded by an A-frame loader.

(10) Access roads and the area around the trailer loading devices must be kept free of standing water and debris and maintained in good repair.

(11) The maximum capacity load to be lifted must be posted in a conspicuous location where it can be easily seen by any person operating the hoist.

(12) Trailer loading equipment must be periodically inspected at least every thirty days and must be maintained in good repair. A written report must be made and signed by the person making the inspection and kept on file by the company for twelve months.

(13) ~~((The employer))~~ You must conduct an annual lifting test on each loading device and maintain a written record of the test.

(a) The written record must contain:

(\*) (i) The date of the test;

(\*) (ii) The name of person conducting the test;

(\*) (iii) The amount of weight lifted; and

(\*) (iv) The results kept in the office of the employer or at the site.

(b) The test weight must be at least one hundred twenty-five percent of the maximum rated load and a maximum of one hundred thirty percent of the maximum rated load.

(14) Each drum must be designed and arranged in such a manner that the line will maintain lead and spool evenly without chafing, crossing, or kinking.

(15) A braking system must be installed that has the ability to safely brake and hold one and one-half times weight of the full rated load.

(16) When trailers are to be loaded after dark, sufficient lights must be provided for a safe operation.

AMENDATORY SECTION (Amending WSR 06-07-142, filed 3/21/06, effective 5/1/06)

**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 C.F.R. 160 (Coast Guard Lifesaving Equipment Specifications) and 33 C.F.R. 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.

(4) ~~((The employer))~~ You 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:

(\*) (a) Be reasonably free of glare;

(\*) (b) Provide uniform distribution of illumination; and

(\*) (c) Avoid sharply defined shadows.

(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.

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

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

(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.

(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. Rear-view 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.

(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.

(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.

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

**WAC 296-54-59340 Log unloading, booms, and rafting grounds—Dry land sorting and storage.** (1) Unauthorized foot and vehicle traffic is prohibited in the sorting or storage area.

(2) Logs must be stored in a safe and orderly manner. Roadways and traffic lanes must be kept clear of protruding ends of logs and debris.

(3) Dry deck log storage areas must be kept orderly and maintained in a condition conducive to safe operation of mobile equipment. Roadways and walkways must have a smooth hard-packed surface wide enough to permit a safe operation. Bark, mud, and other debris must not be allowed to accumulate to the extent they constitute a hazard to the operation.

(4) ~~((The employer))~~ You must implement an effective method to control dust at log dumps and in sorting and storage areas.

(5) Only an authorized person ~~((shall))~~ will operate or ride any lift truck, log stacker, or log unloader.

(6) Signaling log unloader operators at dry deck areas by throwing bark or chips in the air is prohibited. Hand, horn signals or other safe, effective means must be used at all times.

(7) Unnecessary talking to the operator while operating controls of a log stacker or log unloader is prohibited.

(8) Lift forks and arms of unloading machines must be lowered to their lowest position, and all equipment brakes set before the operator leaves the machine unattended.

(9) Log unloaders or stackers must not be moved about the premises for distances greater than absolutely necessary with the lift extended above the driver's head or with loads lifted higher than is necessary for vision.

(10) When truck drivers are out of the cab, they must be in the clear, and in view of the log unloader before the lift forks are moved under the load and the lift is made.

(11) Where logs are offloaded onto a dry deck by unloading lines, a self-releasing mechanism must be used. Employees are prohibited from climbing dry decks to release unloading lines.

(12) Employees must not enter the hazardous area near or under loads of logs being lifted, moved, or suspended.

(13) When log unloaders and log stackers are designed so that logs being handled may jeopardize the safety of the operator, ~~((the employer))~~ you must provide overhead protection and any other necessary safeguards.

(14) Log unloaders and log stackers must be equipped with a horn or other audible warning device. If vision is impaired or restricted to the rear, the warning device must be sounded before operating the vehicle in reverse gear and periodically while backing. The warning device must be operative at all times.

(15) A limit stop, which will prevent the lift arms from over-traveling, must be installed on electric powered log unloaders.

(16) Shear guards must be installed on unloading machines and similar equipment on which the arms pivot and move alongside the operator creating a pinch point at that location.

(17) All forklift log handling machines must be equipped with a grapple arms and the arms must be used whenever logs are being carried.

(18) When log trucks are loaded by a log stacker and the lay of any log is higher than the stakes, the log stacker must remain against the completed load, or other suitable protection provided, to prevent the logs from falling until at least two wrappers and binders have been applied.

(19) All binders and wrappers must remain on the load until an approved safeguard has been provided to prevent logs from rolling off the side of the truck or trailer when binders are released. A shear log, or equivalent means, must be provided to ensure the log truck will be stationed close enough to the wrapper rack so that a log cannot fall between the log truck and the wrapper rack when removing binders and wrappers. At least one binder must remain secured while relocating or tightening other binders. Crotch lines, forklifts, log stackers, log unloaders, or other effective means must be used for this purpose.

(20) An extra wrapper or metal band of equal strength must be placed to hold the logs when it is necessary to remove a wrapper to prevent it from being fouled by the unloading machine.

(21) Machines with arms that block the regular exit when in the up position must have an emergency exit installed.

(22) Riding on any part of a log handling machine except under the canopy guard is prohibited.

(23) Identification tags must not be applied or pulled unless logs are resting in a stationary place, such as bunks, cradles, skids, or sorting tables.

(24) Employees must not approach the immediate vicinity of a forklift-type log handling machine without first notifying the operator of the person's intention and receiving an acknowledgement from the operator.

(25) When dry land log dumps use unloading methods similar to those of water dumps, the safety standards for water dumps apply.

(26) When logs are handled between sunset and sunrise or other periods of poor visibility, ~~((the employer))~~ you must provide illumination that meets the requirements of WAC 296-800-210 relating to illumination.

(27) Air operated stake releases must meet the following requirements:

(a) The air supply must be taken from the "wet" air reservoir or from the accessory air line to a spring loaded, normally closed control valve;

(b) The control valve must be located in the cab, positioned so that it is accessible only from the operator's position;

(c) The control valve must be fitted with a spring-loaded cover or otherwise guarded against inadvertent operation; and

(d) A separate air line must extend from the control valve to the tractor and trailer stake release chambers. The air line must be clearly identified or installed so that it cannot be mistaken for the service or emergency air line.

(28) Each deck must be constructed and located so it is stable and provides each employee with enough room to safely move and work in the area.

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

**WAC 296-54-601 Signals and signal systems.** (1) Standard hand or whistle signals as described in this chapter must be used for the movement of rigging, logs, or equipment when using a high lead, slackline, or cable skidder system for yarding. For hand signal illustrations, see appendix 1.

(2) Voice communication may be used to move rigging and control movement of logs, provided a standard audible whistle signal is sounded before any line is moved.

Note: Subsections (1) and (2) of this section do not apply to grapple or other special yarding systems where employees are not exposed to the movement of logs or rigging.

(3) Voice communications may be used for grapple yarding under the following conditions:

(a) Voice communications by use of radio frequencies may be used to transmit instructions and directions to the yarder operator when using a grapple type logging system, if no employee is in a hazardous area near live rigging.

(b) Voice communication may be used to instruct the yarder operator when picking up an occasional log with the use of a choker on a grapple system, if the grapple is on the ground before the setting of the choker and no lines are moved by the operator until the person setting the choker has returned to a safe location away from any running lines. When a number of logs must be yarded by using chokers instead of the grapple, the requirements for high lead logging apply.

(4) Voice communication on the same radio frequencies used to transmit skyline, high-lead, slackline or skidder whistle signals (154.57 and 154.60 MHz channels), must be limited to reporting injuries, fire, and emergency situations where special tools or precautions are needed to prevent or alleviate a hazardous situation. In addition:

(a) The rigging crew must call the yarder engineer by name to ensure that proper contact is established;

(b) The yarder engineer must acknowledge the call with a whistle "stop" signal before the caller starts transmitting the voice message;

(c) Voice transmission must be kept as brief and to the point as possible; and

(d) After receiving the voice message, the yarder engineer must again acknowledge with a whistle "stop" signal that the message has been received and is clearly understood.

(5) If a standard signal is not listed for an unusual or new situation, a hand or whistle signal other than any listed for the type of yarding being done may be used for the specific situation only. Any special signals developed must be understood by all persons working in the area who may be affected by their use.

(6) A copy of the standard hand and whistle signals must be ~~((posted on the yarder and at places where crews congregate. For tractor logging operations, hand signals must be posted at places frequented by the crew members such as in crew buses, etc))~~ available at the worksite.

(7) Only one person in any crew ~~((shall))~~ must give signals at the point where chokers are being set. Any person is authorized to give a stop signal when someone is in danger or another emergency condition is apparent.

(8) Hand signals are permitted only when the signal person is in plain sight of the machine operator and when visibility allows signals to be seen. Hand signals may be used at any time as an emergency stop signal.

(9) Throwing of any type of material or relying on engine noise, such as from a chain saw, as a signal is prohibited.

(10) All persons must be in the clear before any signal is given to move the rigging, logs, or turns. Rigging, logs, or turns must not be moved until after the proper signals have been given.

(11) Machine operators must not move any line unless the signal received is clear and distinct. If in doubt, the operator must repeat the signal as understood and wait for confirmation.

(12) A horn or whistle that is automatically activated by the radio or electric signaling system must be used on each yarder used for skyline, high lead, skidder or slackline system of yarding, except where hand signals or voice communication as described in subsection (2) of this section is permitted. The horn or whistle must emit a sound that is clearly audible to all persons in the affected area and must be sounded before any line is moved. Such a horn or whistle is also required on combination yarding and loading machines and tree pullers. Audible signals are not necessary on grapple or other yarding systems where persons are not exposed to the movement of logs or rigging.

(13) All radio-controlled motorized carriages and sky-cars must have a warning horn which must be sounded before any lines or loads are moved or an audible whistle must be sounded from the yarder.

(14) Each unit of the signal or control system in use must be tested daily before logging operations begin. Audible signals used for test purposes must not include signals used for the movement of lines or materials.

(15) Citizen band (CB) radios must not be used to activate any signal, machine, or process, either automatically or by voice. CB radios may be used for communication between sides, vehicles, work units, or for emergency situations.

(16) When audible whistle signals are being used simultaneously by yarding and loading machines at a landing, signal whistle or horn tones used in connection with machine movements must be so differentiated as to distinctively identify any intended work movement of either machine.

(17) When the normal rigging crew configuration consists of two or more persons at the point where chokers are being set, ~~((they must each carry an operable transmitter on their person))~~ at least two members of the rigging crew must carry transmitters for each signal and control system being operated where chokers are being set. Only one transmitter for each signal and control system is required if:

(a) The signal person has no other duties and remains in an area where there are no hazards created by the moving rigging or logs; or

(b) The rigging crew is comprised of only one employee.

(18) The use of a jerk wire whistle system for any type of yarding operation is prohibited.



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

**WAC 296-54-604 Radio signaling permits.** To apply for a new radio signaling permit, to request a change in a permit, or to request a change in the use area for any permitted system, write to:

WISHA Services Division—Permits  
Department of Labor & Industries  
P.O. Box ((44650)) 44655  
Olympia, WA ((98504-4650)) 98504-4655

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

**WAC 296-54-605 Radio systems used for voice communication, activation of audible signals, or control of equipment.** (1) A valid operating permit must be obtained by the owner from the department of labor and industries, prior to putting into use any radio signaling or control system intended to be used in conjunction with any type of cable logging operations.

(a) Permits will be issued only for systems licensed for such use and using those carrier frequencies as authorized by the Federal Communications Commission.

(b) Permits will be granted only when tone or function frequencies are compatible with other radio systems in use and when in compliance with all other applicable requirements of this chapter.

(2) The department of labor and industries reserves the right to designate the use of radio frequencies for specific purposes or functions. For example: Frequencies may be specified for voice transmission of instruction, others for tone-coded functions, or activation of signaling devices.

(a) Single tone coded functions must not be used on radio equipment designed to initiate whistle signals, or to activate or control any machine, material-handling device, or other equipment hazardous to employees.

(b) The department may also designate which tone frequencies may be used for the activation of a signaling device or for control of equipment on certain federal communication assigned carrier frequencies.

(3) A list of tone frequencies that may be used with any Federal Communications Commission assigned carrier frequencies will be made available from the department upon request.

(4) The department will assign the area or areas in which a radio signaling system may be used and mark those areas on the permit. Radio signaling systems must not be used in any area other than the ones indicated on the permit. (See Figure 36: Areas for Use of Radio Signaling Systems for Logging Operations.)

(5) The person or firm name on the permit must be the same as the person or firm operating the radio signaling system except for loaner or rental sets. A person or firm using a loaner or rental set is responsible for the radio signal system as if they were the owner of the set.

(6) The application for a permit to use a radio signaling system must contain the following information (see Figure

37: Application for permit to operate radio signal system in designated area):

(a) Name and address of applicant.

(b) The radio frequencies of the radio signaling device in MHz.

(c) The tone frequencies of the radio signaling system used to activate a horn, whistle, or control equipment in Hz. The security gate, or pulse tone, must be shown first.

(d) The name of the manufacturer of the radio signaling system.

(e) The serial number of the receiving unit.

(f) The state assigned area or location in which the unit will operate.

(g) The type of signaling used.

(h) From whom the system was purchased or acquired, and the date of acquisition of the system.

(i) Intended use and function of the system.

(7) All radio equipment must meet all applicable FCC standards. FCC identifier numbers and required information must be visible when possible.

(8) Radio equipment must not be used without displaying a permit as required by this standard. The permit must be prominently displayed on the outside case of the receiver of the unit or, for radio-controlled carriages, on the transmitter in the yarder.

(9) Each radio receiver must have its radio carrier frequency in MHz and tone frequency(s) in Hz indicated on the outside case of the receiver (see Figure 38: Radio permit):

(a) The manufacturer's name and serial number must be permanently indicated on the outside of the case;

(b) When the duration or width of the tone frequencies performs a function, the one duration/width must also be permanently indicated on the outside of the receiver case;

(c) Each transmitter must be identified with its receiver; and

(d) Two or more receivers in operation simultaneously on the same tone frequencies are prohibited unless one is used for monitoring only.

(10) It ((~~shall~~)) will be the responsibility of the owner of any radio signaling system to notify the department of labor and industries, immediately, if the signal system is:

(a) Permanently retired (in what manner and date retired);

(b) Sold (submit name and address of purchaser and date sold);

(c) Removed from the state (name of state to which moved and date moved); or

(d) Stolen (date).

(11) All radio signaling systems put into use for the first time after the effective date of these safety standards, ((~~shall~~)) must meet or exceed the minimum performance specifications contained in WAC 296-54-607 of these safety standards, and, when altered or repaired, ((~~shall~~)) must continue to meet such specifications.

(12) Adjustments, repairs, or alterations of radio signaling and control devices must be done only by or under the immediate supervision and responsibility of a qualified and certified radio technician with factory training or equivalent certified experience. Anyone without the technical ability or the proper equipment to cause the signaling systems to func-

tion within required tolerances must not attempt to repair, alter, or adjust the systems.

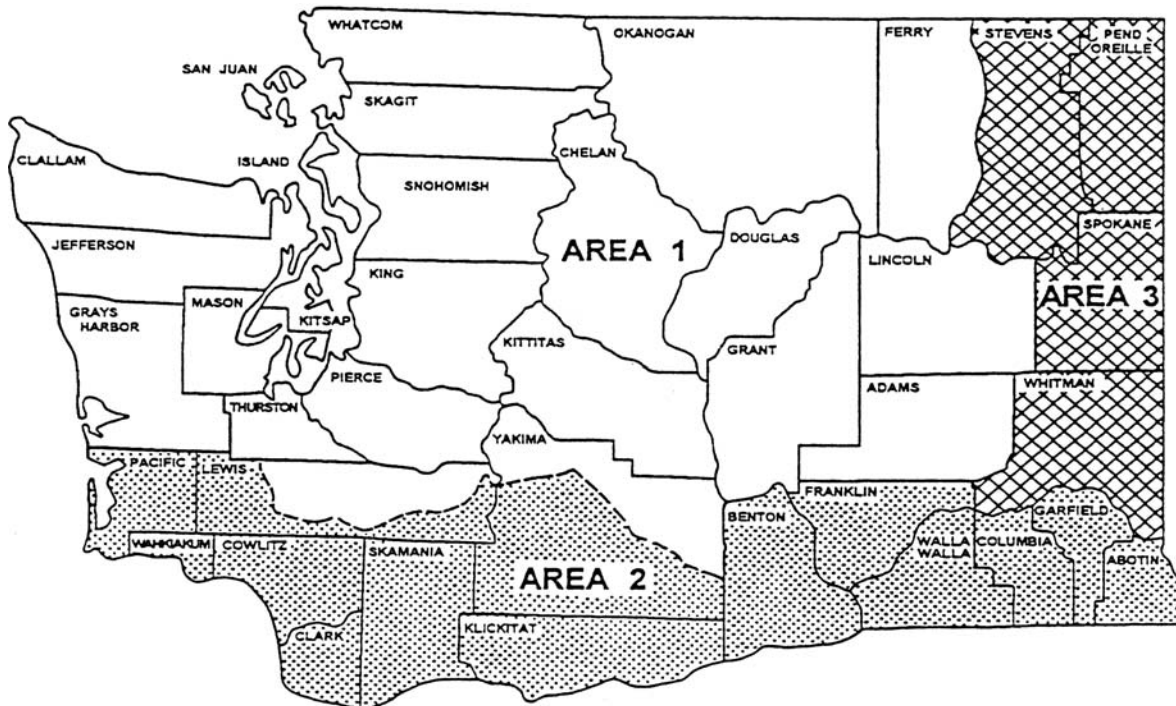
(13) When interference, overlap, fadeout, or blackout of radio signals is encountered, the use of the device must be discontinued immediately. Use may not be resumed until the source of trouble has been detected and corrected.

(14) Radio frequencies assigned to systems for which voice communications may be used to give signals to the yarder operator must not be the same frequencies as those assigned for whistle signals or machine control signals used in skyline, highlead, slackline, or cable skidder systems.

(15) When hazardous interference is created by moving a voice communication system into an area where a system is already in use on the same frequency, use of the (~~newly moved~~) newly moved system must be immediately discontinued until the problem of interference has been corrected.

(16) Before moving any unit from one assigned geographical area to another (see area map, Figure 36: Areas for Use of Radio Signaling Systems for Logging Operations), the owner must apply for and receive a new permit from the department.

AREAS FOR USE OF RADIO SIGNALING SYSTEMS FOR LOGGING OPERATIONS



STATE OF WASHINGTON  
DEPARTMENT OF LABOR AND INDUSTRIES  
DIVISION OF INDUSTRIAL SAFETY AND HEALTH

Figure 36: Areas for Use of Radio Signaling Systems for Logging Operations

Form No. 157.

STATE OF WASHINGTON

5-71

DEPARTMENT OF LABOR AND INDUSTRIES

DIVISION OF SAFETY

APPLICATION FOR PERMIT TO OPERATE RADIO SIGNAL SYSTEM IN DESIGNATED AREA

Radio Carrier Frequency ..... Serial No. ....
Tone Coding Frequency ..... Hz ..... Name of Manufacturer of Signal System .....
Firm Name ..... Address ..... By .....
Intended Function of Unit: Voice communication [ ] Whistle signal [ ] Control Equipment [ ]
Area in which Unit will be Operated: ..... 1 [ ] ..... 2 [ ] ..... 3 [ ] .....
Type of Tone: Sequential [ ] Simultaneous [ ] If other specify type .....
System to be Used For: Grapple [ ] Skyline, Highlead, Slackline, Skidder [ ] Balloon [ ]
System Purchased or Acquired From .....
Date System Purchased or Acquired: Day ..... Month ..... Year .....
Mail Permit to .....
Date Application Mailed to Division of Safety ...../...../.....
Date Permit Issued ...../...../.....
DIV. OF SAFETY USE ONLY

Figure 37: Application for Permit to Operate Radio Signal System in Designated Area

((

Dept. of Labor & Industries
Div. of Consultation & Compliance
P.O. Box 44650
Olympia, WA. 98504-4650



RADIO PERMIT

TO OPERATE MULTI-TONE RADIO SIGNAL SYSTEM IN DESIGNATED AREA.

MODEL SERIAL
CARRIER FREQUENCY MHz
TONES Hz
AREA
FIRM NAME
ISSUED BY

F416-086-000 RADIO PERMIT 10-88

))

Department of Labor and Industries
Division of Occupational Safety and Health
PO Box 44655
Olympia, WA 98504-4655
Radio Permit
Serial No. Carrier Frequency MHZ
Area Tones HZ
Firm Name
Issued by:
DEPARTMENT OF LABOR AND INDUSTRIES

Figure 38: Radio Permit

A permit issued by the department of labor and industries shall be attached to the outside of the receiver which shall indicate the area in which the radio signaling equipment may be used.

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

WAC 296-54-607 Radio signal systems—Specifications and test procedures. All radio-signaling systems put into use must meet or exceed the requirements of this section.

When systems are altered or repaired they must continue to meet these requirements.

(1) Radio equipment in use at cable logging sites, which is primarily used for voice communication, must be on a separately assigned frequency from radio equipment primarily used to initiate whistles or other audible signaling devices or to control any machine, material handling device or other equipment hazardous to employees.

(2) Radio-signaling systems used to transmit whistle signals or control functions of equipment associated with skyline, highlead, slackline, or cable skidder systems of logging must transmit and decode only by the use of authorized multitone frequencies. Only sequential tones may be used to transmit signals or control equipment when using carrier frequencies of 154.57 or 154.60 MHz.

(3) All radio systems receiver sensitivity must be able to attain 0.4 microvolt, or greater, for 12 dB SINAD ratio for VHF frequencies and 0.5 microvolt, or greater, for UHF frequencies. When interference is a factor, the receiver may be desensitized in the furtherance of safety by a person qualified according to WAC 296-54-605(12).

(4) All radio signal systems must have receiver spurious attenuation of at least 70 dB when measured by the 20 db quieting method and image response attenuation of 60 db when measured by the 20 db quieting method. (~~"Spurious response attenuation" is a measure of the receiver's ability to discriminate between a desired signal to which it is resonant and an undesired signal at any other frequency to which it is also responsive.~~)

(5) All radio signal systems must have receiver selectivity of at least 80 db plus or minus 30 KHz, when measured by the E.\*I.A. SINAD method.

(6) The receiver-decoder tone frequency stability must not exceed 0.006 (0.6%) above or below the assigned tone frequency.

(7) The drift of a transmitter-encoder tone must not exceed 0.006 (0.6%) above or below the assigned tone frequency.

(8) Parts of the radio-signaling system affected by moisture, which may be subjected to the entrance of moisture during use, must be weatherproofed. Transmitters must be tested within fifteen minutes after being subjected to the following conditions and must have the ability to continue functioning properly. The transmitter and receiver must be placed in a humidity chamber for eight hours where the humidity has been maintained at not less than ninety percent and where a 40 degrees C. temperature has been maintained.

(9) Radio-signaling system units must operate within tolerances specified at any temperature within the range of -30 degrees C. to +60 degrees C.

(10) Switches of transmitters used to send whistle signals or activate equipment associated with high lead, slackline, or cable skidder systems of logging must be designed so that two buttons, motions or a combination of these are required simultaneously to cause activation of the system. Arrangement of the activating switches must allow the operator to transmit signals easily but not easily activate a control or command function accidentally.

(11) All receivers intended to be mounted on or in the yarder or similar equipment, and all portable transmitters,

must continue to maintain specified mechanical and electrical performance during and after being subjected to vibration of the magnitude and amplitude as follows:

(a) The equipment must be vibrated with simple harmonic motion having an amplitude of 0.015" (total excursion 0.03") with the frequency varied uniformly between 10 and 30 Hz and an amplitude of 0.0075" (total excursion 0.015") with the frequency varied uniformly between 30 and 60 Hz.

(b) The entire cycle of frequencies for each group (i.e., 10 to 30 cycles and 30 to 60 cycles) must be accomplished in five minutes and repeated three times.

(c) The above motion must be applied for a total of thirty minutes in each direction, that is, the directions parallel to both axes of the base and perpendicular to the plane of the base.

(12) All portable transmitters must be able to maintain specified mechanical and electrical performance after being subjected to a shock test as follows: The transmitter (~~shall~~) must be dropped five times from a height of four feet onto a smooth concrete floor. Each drop must impact a different surface of the transmitter.

(13) Transmitters operating on carrier frequencies of 154.57 MHz and on 154.60 MHz must be limited on maximum power output of 500 mW measured at the antenna terminals.

(14) To minimize the possibility of interference with other signaling systems, the input power of transmitters operating in the 450 MHz range should be limited to only the amount needed to transmit to the receiver of the system effectively.

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

**WAC 296-54-701 Wood spar trees.** (1) Wood spar trees must be of sound material of sufficient size and strength to withstand any stresses which may be imposed by any equipment used for that specific logging operation.

(2) The top of the tree must not extend (~~not~~) more than:

(a) Sixteen feet above the top guylines on spar trees over fifty feet tall; and

(b) Eight feet above the top guylines on spar trees less than fifty feet tall.

(3) School marms used as spar trees must be topped at the forks. Spar trees, except cedar, must be barked where guylines, straps, bull blocks, and tree plates are placed.

(4) Spar trees must be topped and limbs must be cut off close so that running lines will not foul or saw on protruding knots.

(5) At least four tree plates must be placed under top guylines on spar trees over fifty feet tall. At least three tree plates must be used on spar trees less than fifty feet tall.

(6) Tree plates must be equipped with lugs or other suitable means to hold them in place.

(7) Before raising spar trees, dummy trees must be topped and guyed with three guylines equivalent in breaking strength to the mainline.

(8) When spar trees are raised, stumps used for snubbing must be properly notched. Guylines must be held by a mechanical means. Snubbing by hand is prohibited.

(9) All rub trees must be limbed and topped.

(10) Loose material such as bark, spikes, straps or chains not in use and slabs caused by bumping logs or chafing straps must be removed from the spar trees. Heavy bark must be removed from trees used for a permanent installation.

(11) A person must ride only the passline to thread lines, to lubricate blocks, or to inspect rigging.

(12) When the friction lever and passline drum are on the opposite side of the machine from the operator, an experienced person (~~must~~) operates the friction lever while the engineer operates the throttle. While being used, the passline drum must be properly attended by another person to guide the passline onto the passline drum with a tool suitable for the purpose.

(13) Using a gypsy drum to handle employees in the tree is prohibited.

(14) A climber's rope must encircle the tree before the climber leaves the ground, except when the climber is riding the passline.

(15) Spikes, used by the climber as a temporary aid in hanging rigging, must be removed before the tree is used for logging.

(16) Topping trees in windy weather is prohibited.

(17) Topping, rigging-up, or stripping is prohibited when visibility is impaired.

(18) When heel tackle is fastened near the machine, a safety line must be placed in such manner that in case of breakage, lines do not strike the power unit and endanger the operator.

(19) Yarding with more than one unit on any one head spar is prohibited.

(20) The angle between the power unit, the high lead block, and the mainline road must not exceed a square lead on rigged spars. When using portable spars or towers, the location of the machine or position of the operator must ensure that the operator is not endangered by incoming logs.

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

**WAC 296-54-70110 Wood spar trees—Guylines.** (1) Wood spar trees using a line greater than 7/8-inch and used as loading and yarding trees must have at least six top guys and four buckle guys, if a sail guy is used.

(2) Wood spar trees using a mainline greater than 7/8-inch and used only as yarding trees must have at least six top guys and must use at least three buckle guys.

(3) Wood spar trees using a mainline of 7/8-inch or less must be supported by at least five top guylines or other positive means of supporting the spar.

(4) Wood spar trees used for yarding with light equipment (7/8-inch or smaller mainline) must be guyed so that strains will be imposed on at least two guylines. If less than five top guys are used, guylines must be at least 1/4-inch larger than the mainline.

(5) Wood spar trees used for loading only with crotch line, spreader bar, or swinging boom must have at least four top guys and must use at least three buckle guys.

(6) More guylines must be added if there is any doubt about the stability of a spar tree, raised tree, tail tree, lift tree, or other equipment or rigging they support.

(7) Wood spar trees used for transfer must have at least five top guys and must use at least three buckle guys.

(8) Guylines must be alternately (~~be~~) passed around the wood spar in opposite directions to prevent twisting of the spar.

(9) Guylines must be attached to the upper portion of the wood spar by shackles.

(10) When a high lead block is hung below buckle guys, at least three top guys of equal strength to the mainline must be used to keep the top from swaying.

(11) When buckle guys are required, they must be installed on the tree where they will provide the maximum effectiveness.

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

**WAC 296-54-705 Truck and equipment maintenance shops.** It is recognized that the usual hazards encountered in maintenance shops performing work on logging and related equipment would be very similar to those found in general repair, machine or welding shops; therefore, the rules contained in chapter 296-24 WAC, General safety and health standards and other applicable safety standards promulgated and administered by the department of labor and industries (~~shall~~) must apply to such places of work.

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

**WAC 296-54-99003 Appendix 2—Sample minimum lockout/tagout procedure.** (Company Name) has established this lockout/tagout program to provide protection for employees performing maintenance or servicing of (~~logging~~) equipment.

Before any employee begins maintenance or servicing of equipment where the unexpected energizing, start up, or release of stored energy could cause injury, the equipment must be shut down, isolated from all potentially hazardous energy and locked or tagged out.

Employees must not start, attempt to start, energize or use equipment that has been locked or tagged out. Tags and/or padlocks will be provided for tagging and/or locking out (~~logging~~) machinery and will be durable enough to withstand the environment. Tags will contain a legend such as: "Do Not Start" or "Do Not Operate." When tagout is used, tags must be located in a position that will be obvious to anyone attempting to operate the machinery. In lockout, padlocks are commonly used to prevent access to ignition/master switches or battery disconnects.

Employees performing maintenance or servicing must determine which sources of hazardous energy must be disabled for a particular job. The following are examples of hazardous stored energy found on (~~logging~~) equipment:

(\*) 1. Equipment

(\*) 2. Hydraulic or pneumatic pressure

(\*) 3. Mechanical (rotating saws, springs, shafts, gears, etc.)

((★)) 4. Gravity (elevated blades, booms, grapples, saw heads, etc.)

**Sample lockout/tagout procedures**

The following steps must be followed for lockout/tagout:

((★)) 1. Ensure that the brakes, swing locks, etc. are applied.

((★)) 2. Place the transmission in the manufacturer's specified park position.

((★)) 3. Lower or secure each moving element such as, but not limited to, blades, booms, grapples, buckets, saws, and shears to prevent a release of stored energy.

((★)) 4. Shut down machinery, and ensure that a responsible person removes and keeps the ignition/master key.

((★)) 5. Engage hydraulic safety locks when applicable.

((★)) 6. Before working on hydraulic or air systems, relieve pressure by bleeding tanks or lines and operate controls to dissipate residual stored energy (pressure).

((★)) 7. Place lockout and/or tagout device.

Before lockout or tagout devices are removed and machinery is started, inspect the work area to ensure all tools have been removed, guards are replaced, and employees are in the clear.

We will provide training to ensure that the purpose and function of the lockout/tagout program are understood by employees performing maintenance or repair of equipment.

**NEW SECTION**

**WAC 296-54-99015 Appendix 6—Sample chain shot training program.**

**"Chain Shot" Awareness and Prevention Training**

Employee \_\_\_\_\_ Trainer \_\_\_\_\_ Date \_\_\_\_\_

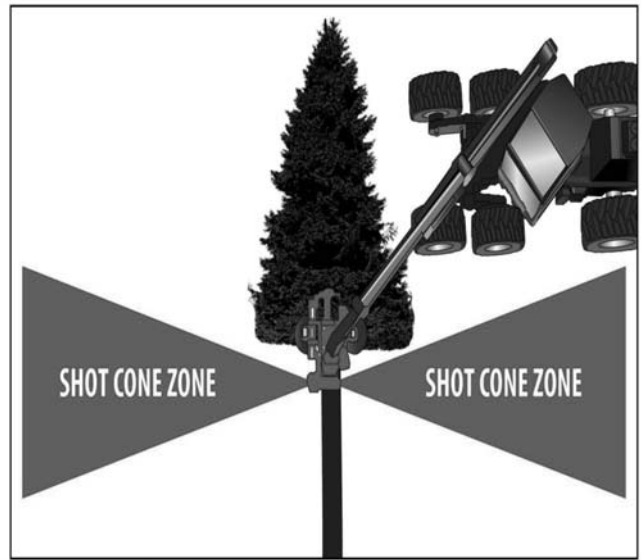
All employees who operate or work around or perform maintenance and/or repair of any kind of machinery equipped with a hydraulic powered bar saw must receive "chain shot" awareness training appropriate to their job.

*Note: Employers who have employees who are potentially exposed to the chain shot but do not operate, inspect, or maintain the equipment can limit training to the information in Section 1.*

Indicates that the employee has received training.

**Section 1 General information**

- Chain shot is the high velocity separation and ejection of a piece or pieces of cutting chain from the end of a broken chain in mechanized timber harvesting/processing. Chain shot exposes both machine operators and bystanders to a risk of serious injury or death. Chain shot typically occurs near the drive end of the cutting system but can also come from the bar tip area.
- A chain shot consists of two breaks in a chain. First, the loop of chain breaks and forms two ends. One end moves past the drive sprocket or bar nose and is rapidly accelerated due to a whip-like motion of the chain end. The "whip action" causes the second break releasing small parts at extremely high speed.
- The "shot cone zone" is the area along the plane of the guide bar where pieces of a broken chain usually travel unless pieces are deflected. The SCZ angles out approximately at a 15 degree angle on both sides of the guide bar and a distance that possibly exceeds 230 feet.
- Employees should stay clear of the shot cone zone.



**Section 2 Cutting system inspection**

The cutting system must be inspected before initial use during each work shift. Defective parts that would make the cutting system unsafe to operate, must be replaced or repaired before the cutting system is placed in service. Report unsafe conditions to your supervisor.

Inspections must include:

- The lubrication system for leaks or damage.
- The chain for cracks or worn/damaged parts.
- The bar for wear and straightness and ensure the tip is properly secured.
- The sprocket.
- The chain catcher if equipped.
- The chain shot guard if equipped.

**Section 3 Cutting system maintenance**

- Sharpen, assemble and repair chains in accordance with the manufacturer's specifications.
- Maintain proper bar and chain lubrication, making sure to use the right type and amount of lubricant.
- Replace the drive sprocket when it has excess wear.
- Clean guide bar grooves and oil port holes regularly.
- Guidebars should be flipped regularly to ensure even wear.

#### □ Section 4 Cutting system operation

- The operator and other persons should be kept clear of the shot cone zone.
- Follow chain manufacturer's recommendations for chain speed. "Boosting" or exceeding the recommended chain speed is prohibited.
- Maintain proper chain tension.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 296-54-595	Transporting crews.
WAC 296-54-59510	Speeders used to transport crews.
WAC 296-54-59520	Trailers used to transport crews.
WAC 296-54-597	Railroads.
WAC 296-54-59710	Railroad construction and maintenance.
WAC 296-54-59720	Railroad operations.
WAC 296-54-59730	Railroad maintenance—Loading or unloading.

**WSR 17-07-105**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed March 21, 2017, 10:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 13-16-084.

Title of Rule and Other Identifying Information: Chapter 296-32 WAC, Safety standards for telecommunications.

Hearing Location(s): Department of Labor and Industries, 3001 West Broadway Avenue, Moses Lake, WA, on May 9, 2017, at 1:00 p.m.; at the Department of Labor and Industries, 12806 Gateway Drive South, Tukwila, WA, on May 11, 2017, at 9:00 a.m.; and at the Department of Labor and Industries, 7273 Linderson Way S.W., Rooms S118 and S119, Tumwater, WA, on May 12, 2017, at 9:00 a.m.

Date of Intended Adoption: July 18, 2017.

Submit Written Comments to: Cynthia Ireland, P.O. Box 44620, Olympia, WA 98504-4620, email [cynthia.ireland@lni.wa.gov](mailto:cynthia.ireland@lni.wa.gov), fax (360) 902-5619, by 5:00 p.m. on May 19, 2017.

In addition to written comments, the department will accept comments submitted to fax (360) 902-5619. Comments submitted by fax must be ten pages or less.

Assistance for Persons with Disabilities: Contact Cynthia Ireland by April 25, 2017, at (360) 902-5522 or [cynthia.ireland@lni.wa.gov](mailto:cynthia.ireland@lni.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposed rule making is as a result of the department receiving a petition formally requesting the department to update and modify the current chapter 296-32 WAC, Safety standards for telecommunications. This chapter was originally created in 1975. Although there have been partial rule changes over the years (1976 through 2002), a full review of this chapter, in its entirety, has not taken place. Since inception of chapter 296-32 WAC over forty years ago, wireless technology in the area of telecommunications has rapidly advanced. Our telecommunication rules have not kept pace with that advancement. Safety has been compromised for our communication workers, as no specific standards exist for their industry. Training requirements in the current rule are generalized and not specific to the critical work skills necessary to perform telecommunication tasks in a safe and effective manner. Radio frequency radiation (RFR) training, and a requirement for rescue training are extremely important areas of worker safety in this industry, and neither are currently addressed in this chapter. Additionally, safety standards for directional boring machinery usage, which has become a constant in telecommunications work, should be included in chapter 296-32 WAC. Aside from the manufacturer's safety manuals for the specific type of boring machinery used, our workers have no other safety standard to follow at this time.

The department held several stakeholder meetings in 2009 and 2010 with labor, business, and industry representatives. The department and stakeholders developed a draft rule, however on November 17, 2010, Executive Order 10-06 was issued suspending all "non-critical" rule making. The executive order expired on December 31, 2012. In 2013, the department received petitions formally requesting the department to recommence with the rule making that began in 2009. The department scheduled additional stakeholder meetings starting back in May 2015, and throughout this process the department worked again with labor, business, and industry representatives to develop this proposed rule.

Reasons Supporting Proposal: There has been a significant increase in injuries including fatalities since the rule was adopted over forty years ago, particularly since cell phone technology has appeared and evolved. Therefore, this proposed rule making is a very important rule-making effort. In addition, references may also be updated throughout our chapters.

#### AMENDED SECTIONS:

#### **WAC 296-32-200 Scope and application.**

- Add clarifying language in subsection (1).
- Add subsection (2) relating to the minimum requirements set forth in this chapter for employers to protect employees from the hazards associated with working in the telecommunications industry.
- Add subsection (3) which explains how this chapter is laid out. The three primary parts of this chapter are:

- Part A: General requirements - this part is intended to convey the areas of responsibility to employers when working on telecommunications facilities or locations of any type.
- Part B: Requirements that apply to wireline.
- Part C: Requirements that apply to wireless.
- Subsection (4) is existing WAC.
- Add clarifying language to subsection (5).
- Add clarifying language to subsection (6).
- Add subsection (7) relating to additional requirements located in national consensus standards.
- Add clarifying language to subsection (8).
- Add subsection (9) relating to enforcement.

#### **WAC 296-32-210 Definitions.**

- Add definitions for acceptable conditions for access, accessible radiation, adverse weather, anchorage, anti-two block, articulating boom lift/crane, assisted rescue, authorized climber, automatic descent control device, boatswain chair, brakes, cage, capstans, carabiner, carrier, climber attachment anchorage, climbing facilities, communication tower, competent climber, competent rescuer, competent rigger, construction work, contract employer, crew, crew chief/supervisor/foreman, crown block (top block or load block), deceleration distance, direct communications, elevated (high angle) rescue, emergency washing facilities, engineer of record (EOR), engineered hoist system, exit, exit route, exposed live parts, exposed wiring methods, fall arrest, fall arrest system, fall protection equipment, fall protection work plan, fall restraint, fiber-optic cable - communication, fiber-optic cable - supply, field work, first aid, flemish eyes (Molly Hogan), floor hole, floor opening, foot block, full body harness, gin pole, gross load, grounded, ground-fault circuit-interrupter, guardrails, handrail, hazard, high wind, hoist mechanism or hoist, hoisting, horizontal lifeline, host employer, individual-rung/step ladder, job hazard assessment, ladder, ladder safety device, landing, laser safety officer, length of climb, line clearance tree trimming, lineman's body belt, listed, load chart, load line, locking snap hook, lockout, lockout device, manual descent control device with automatic lockoff, maximum intended personnel load/gross load, maximum permissible exposure (MPE), may, mobile crew, multi-use site for towers and antennas, must, nearby facility, NEMA, nonionizing radiation, normally unattended work location, oil sample analysis, one hundred percent fall protection, operator (equipment), permissible exposure limits (PELs), personal eyewash units, platform, portable ladder, positioning system, positive locking system, potable water, powered lowering, prime mover, proficient, proof test, pulley, qualified climber, qualified engineer, radio frequency radiation (RFR), rated capacity, record, registered professional engineer (RPE), remote site/worksite, rescue, rescue plan, rescue procedure, rescue system, rescue system - one person, rescue system - two persons, retraining, rigging, rigging plan, rise, riser, rung, safety climb system, safety sleeve, safety watch system, self-retracting lanyard (SRL), shall, should, side plates, side-step ladder, similar structures, single ladder, site/worksite, slings, special-purpose ladder, special tools and equipment, specular reflection, stair railing, stairs or stairway, standard safeguard, static brakes, step, step bolt, structure owner, subcontractor, tag line and/or trolley line, tagout, tagout device, tear-down inspection, through ladder, tie-off anchorage points, time weighted average (TWA), toeboard, tower and tower site, tower construction, tower inspection, tower maintenance work, training program, tread, tread run, tread width, trial lift, two blocking, UL (Underwriters' Laboratories), vertical lifeline, voltage - nominal, watertight, weatherproof, well, winch/hoist, wire rope (cable), and working length.
- Modify the definitions for aerial lifts, aerial splicing platform, aerial tent, alive or live (energized), barricade, barriers, bond, cable, cable sheath, circuit, clearance, climbing space, communication lines, communication plant, competent person, conductor, crewleader or person-in-charge, effectively grounded, emergency, energized, equipment, ground, grounding, ground tent, grounded conductor, grounded systems, grounding electrode conductor (grounding conductor), guard or guarded, insulated, insulation (as applied to cable), joint use, ladder platform, ladder seat, manhole, manhole platform, man-lift equipment, microwave transmission, nominal voltage, pole balcony or seat, pole platform, protection from hazardous voltage, protective devices, public highway, qualified employee (person), qualified line-clearance tree trimmer, qualified line-clearance tree trimmer trainee, sheath, system operator/owner, telecommunications center (facility), telecommunications (digger) derricks, telecommunication line truck, telecommunication service, unvented vault, vault, vented vault, voltage communications, voltage electric supply, voltage of an effectively grounded circuit, and voltage of a circuit not effectively grounded.

#### **NEW SECTIONS:**

##### **WAC 296-32-195 Foreword.**

- Add this section explaining the purpose of this chapter.
- **WAC 296-32-22505 Incorporation of standards of national organizations.**
- Add this section using language from chapters 296-155 and 296-800 WAC.
- **WAC 296-32-22510 Safe place standard.**
- Move requirements from WAC 296-32-215 to this section.
- **WAC 296-32-22511 Host employer/contractor responsibilities.**
- Add this section using language from chapter 296-45 WAC. Also add language referencing the applicable national consensus standards.
- **WAC 296-32-22512 Accident prevention program and safety meetings.**
- Add this section using language from chapters 296-45, 296-155, and 296-800 WAC.



- Move requirement relating to hazard communication from WAC 296-32-230.

**WAC 296-32-22515 First aid.**

- Add this section using language from chapters 296-45, 296-54, 296-800 WAC and WAC 296-32-230.

**WAC 296-32-22520 Remote communication sites.**

- Add this section to address work being done at remote communication sites.

**WAC 296-32-22525 Training.**

- Add this section using language from chapters 296-45, 296-155, 296-863 WAC and WAC 296-32-230.
- Add a requirement relating to tasks being performed less often than once per year will necessitate retraining.

**WAC 296-32-22530 Employee protection in public work areas.**

- Move requirements from WAC 296-32-240 to this section.

**WAC 296-32-22535 Facilities requirements.**

- Move requirements from WAC 296-32-220 to this section.
- Add "face shields" to subsection (5), this came from WAC 296-800-16050.

**WAC 296-32-22540 Tools and personal protective equipment—General.**

- Move requirements from WAC 296-32-250 and 296-32-330 to this section.
- Add personal protective equipment - hazard assessment to this section using language from chapter 296-45 and 296-800 WAC.
- Add language relating to the use of any machinery, tool, material, or equipment not in compliance is prohibited using language from chapter 296-155 WAC.
- Add requirements relating to head and foot protection using language from chapter 296-155 WAC.
- Additional language relating to vehicle-mounted utility generators was added using language from chapter 296-155 WAC.
- Add fire extinguisher inspection requirements using language from chapter 296-800 WAC.

**WAC 296-32-22545 Capstan and cathead hoists.**

- Add this section relating to capstan and cathead hoists.

**WAC 296-32-22550 Rubber insulating equipment.**

- Move requirements from WAC 296-32-260 to this section.
- Add an exception relating to protector gloves using language from chapter 296-45 WAC.
- Add a requirement relating to rubber gloves when not in use shall be carried in an approved bag using language from chapter 296-45 WAC.

**WAC 296-32-22555 General fall protection.**

- Add requirements relating to fall protection using language from chapter 296-155 WAC.
- Add language relating to working in the hour's darkness.

**WAC 296-32-22560 Ladders.**

- Move requirements from WAC 296-32-280 to this section.
- Add a requirement relating to aluminum or conductive ladders using language from chapter 296-876 WAC.
- Add a requirement relating to portable ladders must be equipped with locking levelers.

**WAC 296-32-22565 Vehicle-mounted material handling devices and other mechanical equipment.**

- Move requirements from WAC 296-32-290 to this section.
- Add language relating to the operator's instructional manual shall be kept on the vehicle using language from chapter 296-45 WAC.

**WAC 296-32-22570 Communication, roof tops, water towers and other elevated locations.**

- Add this section to refer employers to the fall protection requirements located in WAC 296-32-22555.

**WAC 296-32-22572 Microwave transmission/radio frequency radiation (RFR) and laser communication—General requirements.**

- Add this section relating to potential RFR hazards and laser hazards.

**WAC 296-32-22574 Hazardous areas.**

- Add this section relating to protection from radiation exposure using language from chapter 296-62 WAC.
- Add a table relating to the limits for maximum permissible exposures.

**WAC 296-32-22576 Optical communications systems (laser).**

- Add language relating to lasers using language from ANSI Z136.

**WAC 296-32-22578 Control of hazardous energy.**

- Add language relating to the control of hazardous energy using language from chapter 296-803 WAC.

**WAC 296-32-23505 Pole climbing equipment.**

- Move requirements from WAC 296-32-270 to this section.
- Change "safety belts" to ["lineman's belts" to be consistent with current industry practice. Also using language from chapter 296-45 WAC.
- Add language relating to one hundred percent fall protection using language consistent with chapter 296-45 WAC.
- Add language relating to snaphooks using language from chapters 296-45 and 296-155 WAC.
- Wire rope requirements came from manufacturer's specifications.

- Pulling equipment requirements came from manufacturer's specifications.

**WAC 296-32-23510 Materials handling and storage.**

- Move requirements from WAC 296-32-300 to this section.

**WAC 296-32-23512 Cable fault locating and testing.**

- Move requirements from WAC 296-32-310 to this section.

**WAC 296-32-23514 Grounding for employee protection—Pole lines.**

- Move requirements from WAC 296-32-320 to this section.

**WAC 296-32-23516 Overhead lines.**

- Move requirements from WAC 296-32-330 to this section.
- Add language relating to handling suspension strand using language from chapter 296-45 WAC.

**WAC 296-32-23518 Wood or other types of poles.**

- Add language relating to testing of wood poles using language from chapter 296-45 WAC.
- Add language relating to when a pole is not safe to perform the work without taking additional precautions.
- Add language relating to handling poles near energized power conductors using language from chapter 296-45 WAC.
- Update the minimum approach distances in Table 6.

**WAC 296-32-23520 Telecommunications line tree trimming and emergency work.**

- Move requirements from WAC 296-32-360 to this section.
- Update the minimum approach distances in Table 7.

**WAC 296-32-23522 Line patrol and work on aerial plants.**

- Add language relating to line patrol and work on aerial plants from chapter 296-45 WAC.

**WAC 296-32-23523 Storm work and emergency conditions.**

- Move requirements from WAC 296-32-360 to this section.
- Add language relating to when storm damage work can begin.
- Add language relating to the use of insulated gloves.

**WAC 296-32-23524 Underground lines and cable vaults. Underground/buried communication lines.**

- Add language relating to underground lines and cable vaults using language from chapter 296-155 WAC.

**WAC 296-32-23526 Directional boring machines.**

- Add language relating to directional boring machines using language from manufacturer's specifications.

**WAC 296-32-23528 Manholes, street openings and vaults.**

- Move requirements from WAC 296-32-340 to this section.

**WAC 296-32-23530 Joint power and telecommunication manholes and vaults.**

- Move requirements from WAC 296-32-340 to this section.

**WAC 296-32-23532 Ladders for underground access.**

- Move requirements from WAC 296-32-340 to this section.

**WAC 296-32-23534 Tent heater, torches and open flames.**

- Move requirements from WAC 296-32-250 and 296-32-340 to this section.

**WAC 296-32-23536 Lead work.**

- Move requirements from WAC 296-32-250 to this section.

**WAC 296-32-24005 Wireless communications—General requirements.**

- Add general requirements relating to the wireless part of the telecommunications industry such as:
  - Training and training program documentation
  - Telecommunications work on high voltage transmission towers
  - Site specific safety plan
  - Hazard assessment
  - Climbing facilities
  - Communication tower/structure evaluation
- Add requirements from ANSI/TIA 222G.

**WAC 296-32-24010 Antenna work-radio transmitting stations 3-30 MHZ.**

- Move requirements from WAC 296-32-320 to this section.

**WAC 296-32-24012 Fall protection.**

- Add requirements relating to fall protection using language from chapters 296-155 and 296-878 WAC.

**WAC 296-32-24014 Work during hours of darkness.**

- Add requirements when climbing towers in the hours of darkness.

**WAC 296-32-24018 Emergency response/rescue requirements.**

- Add requirements relating to emergency response/rescue.

**WAC 296-32-24020 Rigging plan.**

- Add rigging plan requirements from ANSI/ASSE A10.48.

**WAC 296-32-24022 Gin poles—Installation.**

- Add gin pole installation requirements from ANSI/ASSE A10.48.

**WAC 296-32-24024 Gin poles—Use.**

- Add gin pole use requirements from ANSI/ASSE A10.48.

**WAC 296-32-24026 Gin poles—Inspections.**

- Add gin pole inspection requirements from ANSI/ASSE A10.48.

**WAC 296-32-24028 Base mounted hoists used for overhead material lifting and personnel lifting.**

- Add requirements relating to base mounted hoists used for overhead material lifting and personnel lifting from ANSI/ASSE A10.48.

**WAC 296-32-24032 Personnel lifting—General requirements.**

- Add requirements relating to personnel lifting from ASME B30.23.

**WAC 296-32-24034 Helicopters used for lifting loads.**

- Add requirements relating to using helicopters for lifting loads from ANSI/ASSE A10.48.

**REPEALED SECTIONS:****WAC 296-32-215 Safe place standard.**

- Repeal this section and move the requirements to WAC 296-32-22510.

**WAC 296-32-220 General.**

- Repeal this section and move the requirements to WAC 296-32-22535.

**WAC 296-32-230 Training.**

- Repeal this section and move the requirements to WAC 296-32-22525.

**WAC 296-32-240 Employee protection in public work areas.**

- Repeal this section and move the requirements to WAC 296-32-22530.

**WAC 296-32-250 Tools and personal protective equipment—General.**

- Repeal this section and move the requirements to WAC 296-32-22540.

**WAC 296-32-260 Rubber insulating equipment.**

- Repeal this section and move the requirements to WAC 296-32-22550.

**WAC 296-32-270 Personal climbing equipment.**

- Repeal this section and move the requirements to WAC 296-32-23505.

**WAC 296-32-280 Ladders.**

- Repeal this section and move the requirements to WAC 296-32-22560.

**WAC 296-32-290 Vehicle-mounted material handling devices and other mechanical equipment.**

- Repeal this section and move the requirements to WAC 296-32-22565.

**WAC 296-32-300 Materials handling and storage.**

- Repeal this section and move the requirements to WAC 296-32-23510.

**WAC 296-32-310 Cable fault locating and testing.**

- Repeal this section and move the requirements to WAC 296-32-23512.

**WAC 296-32-320 Grounding for employee protection—Pole lines.**

- Repeal this section and move the requirements to WAC 296-32-23514.

**WAC 296-32-330 Overhead lines.**

- Repeal this section and move the requirements to WAC 296-32-23516.

**WAC 296-32-340 Underground lines and cable vaults.**

- Repeal this section and move the requirements to WAC 296-32-23524.

**WAC 296-32-350 Microwave transmission.**

- Repeal this section and move the requirements to WAC 296-32-22572.

**WAC 296-32-360 Tree trimming—Electrical hazards.**

- Repeal this section and move the requirements to WAC 296-32-23520.

**WAC 296-32-370 Buried facilities—Communications lines and power lines in the same trench.**

- Repeal this section, the requirements relating to buried facilities are located in WAC 296-32-23524.

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 necessary because of federal law, 29 C.F.R. 1910 Subpart R.

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

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, (360) 902-5516;

Implementation and Enforcement: Anne Soiza, Tumwater, Washington, (360) 902-5090.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement is not required for this rule making pursuant to RCW 19.85.030 (1)(a) as the department determined the rule will not result in or impose more than minor costs.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Cynthia Ireland, P.O. Box 44620, Olympia, WA 98504-4620, phone (360) 902-5522, fax (360) 902-5619, email [cynthia.ireland@lni.wa.gov](mailto:cynthia.ireland@lni.wa.gov).

March 21, 2017  
Joel Sacks  
Director

### NEW SECTION

**WAC 296-32-195 Foreword.** The purpose of this chapter is to ensure the workplace for telecommunications employees is free from recognized safety and health hazards. The rules contained herein require that worker safety receive a higher degree of priority than production, speed and profit. Worker safety is paramount and employers must ensure that employees are trained and are authorized and/or competent in the provision(s) of this chapter. Employees are expected to follow the provisions of this chapter in accordance with their experience and training. This chapter is not intended to be a complete job description of telecommunications personnel nor is it expected that this chapter will cover every potential hazard that an employer or their employees may encounter. When a hazard exists beyond what is conveyed in this chapter employers and employees are expected, in good faith, to mutually discuss the hazards and agree as to how to perform the work in the safest manner.

To achieve the greatest degree of safety it is critical to understand that the telecommunications industry is ever changing and therefore has many different disciplines and training requirements. There will be definitions that apply to the chapter as a whole and each specific application. It is important to remember that it is the employers' responsibility to ensure that their employees have the competency and necessary training for the work being performed and understand how sections of this chapter apply and afford the greatest possible protection for their employees.

The department of labor and industries (LNI) is the sole administrative agency responsible for the administration and interpretation of this chapter in accordance with the Washington Industrial Safety and Health Act of 1973. If there are questions concerning meaning or interpretation about any provision contained within this chapter, please direct them to the department and its authorized representatives.

Evidence has shown that the majority of injuries and deaths in the workplace are preventable. Evidence also indicates that the majority of injuries and deaths are due to the failure of the employer and/or employee to comply with and utilize safe work practices. Information contained in this chapter was a collaborative effort and derived from existing telecommunication industry standards, experience in the field

and training. Telecommunication safety requires engineering design, environmental, operational and administrative controls, training policies, personal protective equipment (PPE) and appropriate employee behavior while adhering to safety rules and industry standards. With these components in place and adhered to, work must be appropriately scheduled, properly planned and safely performed.

AMENDATORY SECTION (Amending WSR 07-03-163, filed 1/24/07, effective 4/1/07)

**WAC 296-32-200 Scope and application.** (1) This chapter sets forth safety and health standards that apply to the work conditions, practices, means, methods, operations, installations and processes performed at telecommunications (~~(centers))~~ facilities and at telecommunications field installations, which are located outdoors or in building spaces used for such field installations. "~~(Center))~~ Facility" work includes the installation, operation, maintenance, rearrangement, and removal of communications equipment and other associated equipment in telecommunications (~~(switching centers))~~ facilities. "Field" work includes the construction, installation, operation, maintenance, rearrangement, and removal of conductors, antenna systems and other equipment used for signal or communication service, and of their supporting or containing structures(;) for landline or wireless communications. This could include overhead or underground, on public or private rights of way, ((including)) or other lands, buildings or other structures(- (2)), including those locations that may fall under the scope of chapter 296-45 WAC.

**Note:** Work that falls under the scope of chapter 296-45 WAC may include, but is not limited to, transmission towers, poles, substations, and substation equipment.

(2) These rules set forth the minimum requirements for employers to protect employees from the hazards associated with working on communication towers, structures, and poles. This includes antenna and antenna supporting structures, broadcast and other similar structures that support communication related equipment, during construction, alteration, repair, operation, inspection, maintenance, demolition activities and any other activities connected to accomplishing work associated with this chapter.

(3) The three primary parts of this chapter are as follows:

- Part A: General requirements - This part is intended to convey the areas of responsibility to employers when working on telecommunications facilities or locations of any type.

- Part B: Requirements that apply to wireline - This part is intended to convey to the employer the responsibilities for the training and protection of their employees working with or in telecommunications wireline facilities and field installations. Areas of Part B may also apply to the wireless Part C.

- Part C: Requirements that apply to wireless - This part is intended to convey to the employer the responsibilities for the training and protection of their employees working with or upon telecommunications wireless facilities and field installations. Areas of Part C may also apply to the wireline Part B.

(4) These standards do not apply to:

(a) ~~To construction work, as defined in chapter 296-155 WAC, nor~~

(b) ~~to installations under the exclusive control of electric utilities used for the purpose of communications or metering, or for generation, control, transformation, transmission, and distribution of electric energy, which are located in buildings used exclusively by the electric utilities for such purposes, or located outdoors on property owned or leased by the electric utilities or on public highways, streets, roads, etc., or outdoors by established rights on private property.~~

~~((3)) (5) Operations or conditions not specifically covered by this chapter are subject to all ~~(the)~~ other applicable ~~(standards contained in)~~ Washington Administrative Code to include, but not limited to, chapter 296-24 WAC, general safety and health standards, ~~(and)~~ chapter 296-27 WAC, Recordkeeping and reporting, chapter 296-800 WAC, ~~(the)~~ Safety and health core rules, and chapter 296-62 WAC, General occupational health standards. Operations which involve construction work not covered by this chapter, as defined in chapter 296-155 WAC, are subject to ~~(the)~~ the applicable standards contained in chapter 296-155 WAC, safety standards for construction work and other recognized industry standards that may be applicable to hazards or exposures not covered by this chapter.~~

~~((4)) (6) This standard ~~(shall)~~ will augment the Washington state general safety and health standards chapter 296-24 WAC, General occupational health standards, ~~(electrical workers safety)~~ chapter 296-62 WAC, electric power generation, transmission, and distribution rules, chapter 296-45 WAC, and any other standards which are applicable to all industries governed by ~~(chapter 80, Laws of 1973,)~~ the Washington Industrial Safety and Health Act. In the event of ~~(any)~~ a conflict arising between any portion of this chapter and any portion of ~~(any of the general application)~~ the aforementioned standards, the provisions of this chapter 296-32 WAC, ~~(shall apply)~~ will apply. Additionally, operations, conditions, work methods and other work related situations or activities may be subject to additional rules and regulations depending upon the nature of the work being performed.~~

(7) All communication companies and entities operating communication facilities, networks or systems within the state of Washington must design, construct, operate, and repair their lines and equipment according to the requirements of the following:

- Wireline facilities shall meet the requirements of 2016 National Electric Code (NEC)(ANSI-C2).

- Structures which have the primary purpose to serve as antenna supporting structures shall meet the design requirements of ANSI/TIA 222-G-2005.

- Telecommunication construction standards, ANSI/TIA-322, 2016 and ANSI/ASSE A10.48, 2016.

~~((5)) (8) In exceptional cases where compliance with specific provisions of this chapter can only be accomplished to the serious detriment and disadvantage of an operation, variance from the standards or requirements may be permitted by the director of the department of labor and industries after receipt of application and approval for a variance which meets the requirements of WAC 296-900-11005.~~

(9) The provisions of this chapter will be enforced through inspections or consultation activities conducted by properly trained, qualified and authorized safety and health officers designated by the department.

AMENDATORY SECTION (Amending WSR 94-15-096, filed 7/20/94, effective 9/20/94)

**WAC 296-32-210 Definitions.** ~~((+))~~ The terms used in these standards ~~(shall)~~ will be interpreted in the most commonly accepted sense consistent with the communications industry. The words "shall" and "must," are used to indicate the provisions which are mandatory.

~~((2) "Aerial lifts.")~~ **Acceptable conditions for access** are the conditions that must exist before the employer authorizes and grants permission for construction, alteration, repair or maintenance work. These conditions include the following:

- Work under the control of a work safety program meeting the requirements of the rules in this chapter;

- Notwithstanding the prohibitions outlined in this rule, if emergency maintenance work must be performed where there is an accumulation of snow, ice or other slippery material, the employer shall implement safe work practices (equipment, practices and procedures) that address the hazards known to be associated with work to minimize the associated risk to employees while working.

**Accessible radiation** means laser radiation to which human access is possible.

**Adverse weather** does not abdicate the responsibility of the employer to provide for a safe work environment. Proper clothing and safety equipment must be suitable for the work intended. When adverse weather (such as high winds, heat, cold, lightning, rain, snow or sleet) creates a hazardous condition, operations shall be suspended until the hazardous condition no longer exists.

**Aerial lifts** include, but are not limited to, the following types of vehicle-mounted aerial devices used to elevate personnel to ~~(jobsites)~~ job sites above ground:

~~((a))~~ • Extensible boom platforms~~(:);~~

~~((b))~~ • Aerial ladders~~(:);~~

~~((c))~~ • Articulating boom platforms~~(:);~~

~~((d))~~ • Vertical towers~~(:);~~

~~((e))~~ • A combination of any of the above defined in ANSI A92.2-1969. These devices are made of metal, wood, fiberglass, reinforced plastic (FRP), or other material; are powered or manually operated and are deemed to be aerial lifts whether or not they are capable of rotating above a substantially vertical axis.

~~((3)-")~~ **Aerial splicing platform.**~~((")~~ This usually or commonly consists of a platform, approximately 3 feet x 4 feet, used to perform aerial cable work. It is furnished with fiber or synthetic ropes for supporting the platform from aerial strand, detachable guy ropes for anchoring it, and a device for raising and lowering it with a handline.

~~((4)-")~~ **Aerial tent**~~(("-)~~ is a small tent usually constructed of vinyl coated canvas which is usually supported by light metal or plastic tubing. It is designed to protect employees in inclement weather while working on ladders, aerial splicing platforms, or aerial devices.

~~((5))~~ **Alive or live (energized)**~~((=))~~ means electrically connected to ~~((#))~~ an energy source of potential difference, or electrically charged so as to have a potential significantly different from that of the earth or other objects in the vicinity. The term "live" is sometimes used in the place of the term "**current-carrying**," where the intent is clear, to avoid repetition of the longer term.

~~((6))~~ **Anchorage** means a secure connecting point or a terminating component of a fall protection system or rescue system capable of safely supporting the impact forces applied by a fall protection system or anchorage subsystem.

**Anti-two block device** is a positive acting device that prevents contact between the load block or overhaul ball and the top block (two-blocking) or a system that deactivates the hoisting action before damage occurs in the event of a two-block situation.

**Articulating boom lift/crane** is a crane or boom lift whose boom consists of a series of folding, pin connected structural members, typically manipulated to extend or retract by power from hydraulic cylinders.

**Assisted rescue** is a rescue requiring the assistance of others.

**Authorized climber** is an individual with the physical capabilities to climb, and who may or may not have previous climbing experience; has been trained in fall protection regulations, the equipment that applies to communication structures work and instruction for proper use and inspection of the equipment. Documented training must take place that shows the individual is capable of identifying hazards, inspecting equipment and has demonstrated the practical skills of an authorized climber. An authorized climber is to be supervised by a competent climber.

**Automatic descent control device** is a load lowering device or mechanism that automatically controls pay-out speed of line or descent speed under load once it has been engaged.

**Barricade**~~((=))~~ is a physical obstruction such as tapes, cones, or "A" frame type wood and/or metal structure intended to warn and limit access to a work area.

~~((7))~~ **Barrier**~~((=))~~ is a physical obstruction which is intended to prevent contact with energized lines or equipment, or to prevent unauthorized access to a work area.

~~((8))~~ **Boatswain chair** means a single-point adjustable suspension scaffold consisting of a seat or sling (which may be incorporated into a full body harness) designed to support one employee in a sitting position.

**Bond**~~((=))~~ is an electrical connection from one conductive element to another for the purpose of minimizing potential differences or providing suitable conductivity for fault current or for mitigation of leakage current and electrolytic action.

~~((9))~~ **"Cable."** A conductor with insulation, or a stranded conductor with or without insulation and other coverings (single conductor cable), or a combination of conductors insulated from one another (multiple conductor cable).

~~((10))~~ **Brakes** are a mechanical or hydraulic system that can decelerate or stop a load.

**Cable** is an insulated or uninsulated electrical conductor, often in strands or any combination of electrical conductors that may be insulated from one another; or a stranded wire

used to support a conductor, pole or other structures, such as "guys," etc.

**Cable sheath**~~((=))~~ is a protective covering applied to cables.

**Note:** A cable sheath may consist of multiple layers of which one or more is conductive.

~~((11))~~ **Cage** is a barrier, which may be referred to as a cage guard or basket guard, that is an enclosure mounted on the side rails of the fixed ladder or fastened to the structure to enclose the climbing space of the ladder.

**Capstans** are a spool-shaped mechanical device mounted on the end of a shaft around which a rope is wrapped; sometimes called a cathead when used in a horizontal position; can be pole mounted, tower mounted, or truck mounted.

**Carabiner** is a connector generally comprised of a trapezoidal or oval shaped body with a closed gate or similar arrangement that may be opened to attach another object and, when released, automatically closes to retain the object.

**Carrier** is the track of a ladder safety device consisting of a flexible cable or rigid rail.

**Circuit**~~((=))~~ is a conductor or system of conductors through which an electric current is intended to flow~~((=))~~ "Clearance."

(a) The certification by the proper authority that a specified line or piece of equipment is deenergized; that the proper precautionary measures have been taken and that the line or equipment is being turned over to the workers.

(b) Separation or protection by the use of protective devices to prevent accidental contact by persons or objects on approach to a point of danger.

~~((13))~~ ); or an electrical device that provides a path for an electrical current to flow.

**Clearance** is the distance from a specified reference point or protection by the use of protective devices to prevent accidental contact by persons or objects on approach to a point of danger; the cleared distance between two objects measured surface to surface.

**Climber attachment anchorage** is an anchorage point for attaching a lanyard or similar fall protection device.

**Climbing facilities** are a series of attachments installed on a support structure, or antenna, on which a climber may step while ascending or descending, and which may incorporate or employ:

- Steps, rungs, cleats and/or structural members which form an integral part of the structure;

- Rungs, cleats or step bolts which are attached to the structure;

- Fixed ladders, safety devices, platforms and cages used for climbing or working on communication structures; or

- Climber attachment anchorages.

**Climbing space**~~((=))~~ The vertical ~~((=))~~ is the space reserved (along the side of) on poles or structures ((#)) that permits ready access for ((lineworkers)) workers to gain access to equipment and conductors located on poles or structures.

~~((14))~~ **Communication lines**~~((=))~~ are the conductors and their supporting or containing structures for telephone, telegraph, railroad signal, data, clock, fire, police-alarm, community television ((antenna)), fiber optic, and other systems which are used for public or private signal or communi-

cation services, and which operate at potentials not exceeding 400 volts to ground or 750 volts between any two points of the circuit, and the transmitted power of which does not exceed 150 watts. When communications lines operate at less than 150 volts to ground, no limit is placed on the capacity of the system. Specifically designed communications cables may include communication circuits not complying with the preceding limitations, where such circuits are also used incidentally to supply power to communication equipment.

~~((15))~~ **Communication plant** ~~((" The))~~ are the lines and conductors and their associated equipment required to provide public or private signals ((ø#)) for communicative service.

~~((16) "Competent or qualified person." A person who is familiar with the construction of, or operation of, such lines and/or equipment that concerns their position and who is fully aware of the hazards connected therewith OR one who has passed a journeyman's examination for the particular branch of the trades with which they may be connected. In ease of dispute, competency shall be established by a committee appointed by the director or assistant director of the department of labor and industries consisting of representatives of all interested parties.~~

~~(17))~~ **Communication tower** is any structure that is used primarily as an antenna or to provide attachment points for one or more antennas or signaling devices. Where the communication tower is affixed to another structure, such as an electrical transmission tower, church steeple, building rooftop, or water tower, the applicable part of any controlling regulation for protection of employees shall apply up to the point of access to the communication tower.

**Competent climber** is an individual with the physical capabilities to climb; has actual tower climbing experience; is trained in fall protection regulations including the equipment that applies to tower work; is capable of identifying existing and potential fall hazards; and has the employer's authority to take prompt corrective action to eliminate those hazards. A competent climber is responsible for the authorized climbers when working at height.

**Competent person** is a person who has been trained pertaining to their job assignment and can identify existing and predictable hazards in their surroundings that are either unsanitary, hazardous, or dangerous to employees and has the authority by the nature of their position to take prompt corrective measures to eliminate them. The person must also be knowledgeable in the requirements of this chapter to be competent.

**Competent rescuer** is an individual designated by the employer who by training, knowledge and experience is capable of the implementation, supervision and monitoring of a rescue at height in the event of an emergency. This person shall have the employer's authority to write the individual site rescue plan, and may be designated to manage the employer's fall protection rescue program.

**Competent rigger** is a person knowledgeable and experienced with the procedures and equipment common to the communication structures industry and trained to identify hazards with authorization to take prompt corrective measures.

**Conductor** ~~((=))~~ is a material, usually in the form of a wire, cable, or bus bar, suitable for carrying an electric current.

~~((18))~~ **Construction work** shall mean and include all or any part of excavation, construction, erection, alteration, repair, demolition, and dismantling, of buildings and other structures and all operations in connection therewith; the excavation, construction, alteration and repair of sewers, trenches, caissons, conduits, pipe lines, roads and all operations pertaining thereto; the moving of buildings and other structures, and to the construction, alteration, repair, or removal of wharfs, docks, bridges, culverts, trestles, piers, abutments or any other construction, alteration, repair or removal work related thereto.

**Construction work** for purposes of Part C of this chapter also means field activities related to the installation, alteration, maintenance or demolition/decommission of antenna supporting structures and antennas.

**Contract employer** is an employer, other than a host employer, that performs work covered by this chapter under contract.

**Crew** means a group of two or more employees of one employer sent to a worksite to work on the same project.

**Crew chief/supervisor/foreman** is one who is authorized and designated as competent and qualified by the employer.

**Crewleader or person-in-charge** is that person directly in charge of employees doing the work regardless of title.

**Crown block (top block or load block)** is the sheave assembly used to change the direction of the load line or jump line coming from the hoist and is attached at the uppermost location of the structure for the project to lift loads.

**Deceleration distance** is the vertical distance between the user's fall arrest attachment at the onset of fall arrest forces during a fall, and after the fall arrest attachment comes to a complete stop.

**Direct communications** is the effective and reliable two-way communication, being able to send and receive communications, between crew members or crews using normal voice communication, visual, radio, or cellular means.

**Effectively grounded** ~~((=))~~ means intentionally ((ø-~~needed~~)) connecting equipment to earth through a ground connection or connections of sufficiently low impedance and having sufficient current-carrying capacity to prevent the ((build up of)) transmission of fault current or voltages which may result in undue hazard to employees or connected equipment ((ø to persons.

~~(19) "Emergency." When an unusual condition exists that endangers life and/or property.~~

~~(20))~~.

**Elevated (high angle) rescue** is the process by which emergency methods and equipment are utilized in order to gain access to and egress from the location of an injured employee(s) on a tower structure, or other elevated structures and lower both the injured employee(s) and the rescuer(s) to the ground safely.

**Emergency** is an unforeseen occurrence endangering life, limb, or property which requires immediate action.

**Emergency washing facilities** typically consist of emergency showers, eyewashes, eye/face washes, hand-held drench hoses, or other similar units.

**Energized**((")) means electrically connected to a source of potential difference or electrically charged so as to have a potential different from that of the earth or different from that of adjacent conductors or equipment. ((For the purpose of these rules, potential differences less than 100 volts shall not apply. This definition does not include communication lines of less than 300 volts.

(21-")) **Engineer of record (EOR)** is a registered professional engineer with expertise in the discipline applicable to the scope of work and responsible for the structural adequacy of the design of the structure in the completed project.

**Engineered hoist system** is a hoist system that is the complete system for hoisting, including: The frame, mounts and/or anchorages, prime mover (winch assembly), motors, drums, truck chassis (if used as the base for the hoist), wheel chocks, wire rope, hour meter, foot blocks, gin pole (if used), and rooster head or cat head, as applicable.

**Equipment**((")) is a general term which includes materials, fittings, devices, appliances, fixtures, apparatus, and similar items used as part of, or in connection with, a supply or communications installation((-

(22) "Crewleader or person in charge." That person directly in charge of workers doing the work regardless of title.

(23) "Ground (reference)." That)); to include all machinery used in the performance of constructing and maintaining communication systems.

**Exit** provides a way of travel out of the workplace.

**Exit route** is a continuous and unobstructed path of exit or travel from any point within a communications workplace, structure, or site to provide a safe means of withdrawal.

**Exposed live parts** are electrical parts that are not suitably covered, guarded, isolated, or insulated and are capable of being accidentally accessed, touched or approached closer than a safe distance.

**Exposed wiring methods** are those methods working with electrical wires that are attached to surfaces or behind panels designed to allow access to the wires.

**Fall arrest** is the action or event of stopping a free fall or the instant where the downward free fall has been stopped.

**Fall arrest system** is the collection of equipment components that are configured to arrest a free fall.

**Fall protection equipment** is the personal equipment that employees utilize in conjunction with fall protection systems, including connectors, body belts or body harnesses, lanyards, ropes, deceleration devices, and anchorage points to ensure 100 percent fall protection for the employees.

**Fall protection work plan** is a written planning document in which the employer identifies all areas on the job site where fall hazards may exist. Detailed requirements relating to a fall protection work plan are covered in WAC 296-32-22555 and 296-32-24012 of this chapter.

**Fall restraint** is a system in which all necessary components function together to restrain or prevent an employee from falling to a lower level. Types of fall restraint systems include guardrail systems and personal fall restraint system(s) that prevents the user from falling any distance. The

system is comprised of either a lineman's belt or full body harness, along with an anchorage, connectors and other necessary equipment. The other components typically include a lanyard, and may also include a lifeline and other devices.

**Fiber-optic cable - Communication** is a fiber-optic cable meeting the requirements for a communication line and located in the communication space of overhead or underground facilities.

**Fiber-optic cable - Supply** is a fiber-optic cable located in the supply space of overhead or underground facilities.

**Field work** is the construction, installation, operation, maintenance, rearrangement, and removal of conductors, antenna systems, and other equipment used for signal or communication service, and of their supporting or containing structures for landline or wireless communications.

**First aid** is the extent of treatment you would expect from a person trained in basic first aid, using supplies from a first-aid kit. Tests, such as X rays, must not be confused with treatment.

**Flemish eyes (Molly Hogan)** is an eye splice made by using stranded cable and weaving them together to make an eye.

**Floor hole** means an opening measuring less than twelve inches but more than one inch in its least dimension in any floor, roof, platform, or surface through which materials but not persons may fall, such as a belt hole, pipe opening, or slot opening.

**Floor opening** means an opening measuring twelve inches or more in its least dimension in any floor, roof, platform, or surface through which persons may fall.

**Foot block** is a block stationed or positioned at the base of a structure or pole that allows a line, rope or wire rope to change direction 90 degrees to go up the structure.

**Full body harness** is a body support that is designed to contain the torso in such a manner that fall arrest forces are distributed over at least the upper thighs, pelvis, chest, and shoulders, with provisions for attaching a lanyard, lifeline, or deceleration devices. These specifications must meet the requirements specified in ANSI Z359.1-2007.

**Gin pole** is a device unique to the telecommunications industry and is used to raise successive sections of tower steel, antennas, personnel or equipment into position. This temporary device allows headroom above the highest fixed point of the tower or structure.

**Gross load** means the total load to be lifted. This includes the weight of the lifted object, headache ball, the load line, tag line, and any other attachments.

**Ground** is a conductive body, usually earth, to which an electric potential is referenced((-

(24) "Ground (as a noun)." A conductive connection, whether intentional or accidental, by which an electric circuit or equipment is connected to reference ground.

(25) "Ground (as a verb)." The connecting or establishment of a connection, whether by intention or accident, of an electric circuit or equipment to reference ground.

(26-"))); the connecting or establishment of a connection, whether by intention or by accident; a conducting connection, between an electric circuit and equipment and earth or to some other conducting body that serves in place of the earth.



**Grounded** means to be positively connected to or in contact with earth or connected to an extended conduction body that serves instead of earth. A conducting object such as, but not limited to, a wire that is connected to such a position as zero potential. A connection has been made between an electrical circuit or equipment and the earth or another conducting body besides the earth, used as an arbitrary zero of potential.

**Ground-fault circuit-interrupter** is a device whose function is to interrupt the electric circuit to the load when a fault current to ground exceeds some predetermined value that is less than that required to operate the over-current protective device of the supply circuit.

**Grounding**(<sup>(-)</sup>) **(for employee protection)** is the act of placing shorts and grounds on conductors and equipment for the purpose of protecting ((workers)) employees from dangerous voltages while working on such lines or equipment.

((27-))**Ground tent**(<sup>(-)</sup>) is a small tent usually constructed of vinyl coated canvas supported by a metal or plastic frame. Its purpose is to protect employees and the equipment from inclement weather while working at buried cable pedestal sites or similar locations.

((28-))**Grounded conductor**(<sup>(-)</sup>) is a system or circuit conductor which is intentionally grounded.

((29-))**Grounded systems**(<sup>(-)</sup>) is a system of conductors/equipment in which at least one conductor or point ((usually the middle wire, or the neutral point of transformer or generator windings)) is intentionally grounded, either solidly or through a current-limiting device (not a current-interrupting device).

((30-))**Grounding electrode conductor (grounding conductor)**(<sup>(-)</sup>) is a conductor used to connect equipment or the grounded ((circuit)) components of a wiring system to a grounding electrode.

((31-))**Guard or guarded**(<sup>(-)</sup>) means covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens, mats, platforms, or warning signs or devices to remove the possibility of dangerous contact ((to)) to lines, equipment or devices, limiting or preventing approach by other persons or objects to a point of danger.

((32-)) **Guardrails** means a type of fall restraint system that is a horizontal barrier consisting of a top rail and mid rail, and toe board when used as falling object protection for persons who may work or pass below, that is erected along all open sides or edges of a walking/working surface, a floor opening, a floor hole, wall opening, ramp, platform, or runway.

**Handrail** is a single bar or pipe supported on brackets from a wall or partition to provide a continuous handhold for persons using a stair.

**Hazard** is any condition, potential or inherent, which can cause injury, death, or occupational disease.

**High wind** is a wind condition that is determined to be at such velocity as to create a hazard to the employees performing aerial tasks as an employee would be exposed to being blown from elevated locations, lose footing and control; that wind speed which has been determined to be unsafe by the manufacturer of the particular equipment being used (cranes, lifts, booms, etc.) and/or equipment being installed. Winds

exceeding 25-30 miles per hour (48.3 kilometers per hour) if material handling is involved, winds exceeding 40 miles per hour (64.4 kilometers per hour) are normally considered as meeting this criteria.

**Hoist mechanism or hoist** is the complete unit including frame, prime mover (winch assembly), pumps, motors, drums, and any associated equipment that is necessary to make the complete unit work.

**Hoisting** is the act of lifting and/or lowering loads or personnel.

**Horizontal lifeline** means a rail, rope, wire, or synthetic cable that is installed in a horizontal plane between two anchorages and used for attachment of an employee's lanyard or lifeline device while moving horizontally.

**Host employer** means an employer who operates or maintains telecommunications facilities covered by this chapter and who authorizes a contract employer to perform work on that installation.

**Note to the definition of "host employer":**

The Division of Safety and Health (DOSH) will treat the telecommunication company or the owner of the installation as the host employer if it operates or controls operating procedures for the installation. If the telecommunication company or installation owner neither operates nor controls operating procedures for the installation, DOSH will treat the employer that the telecommunication owner has contracted with to operate or control the operating procedures for the installation as the host employer. In no case will there be more than one host employer.

**Individual-rung/step ladder** is a fixed ladder consisting of individual steps, rungs or climbing pegs mounted directly to the surface, side or wall of the pole, structure, building, equipment, or vault.

**Insulated**(<sup>(-)</sup>) means separated from other conducting surfaces by a dielectric substance for the intended applied voltage or may be subject to (including air space) offering a high resistance to the passage of current.

**Note:** When any object is said to be insulated, it is understood to be insulated in suitable manner for the conditions to which it is subjected. Otherwise, it is, within the purpose of these standards, uninsulated. Insulating coverings of conductors is one means of making the conductor insulated.

((33-))**Insulation (as applied to cable)**(<sup>(-)</sup>) means that which is relied upon to insulate the conductor from other conductors or conducting parts or from ground.

((34-)) **Job hazard assessment** is a process used to identify hazards and the methods to eliminate or control those hazards.

**Joint use**(<sup>(-)</sup>) is the sharing of a common facility, such as a manhole, trench or pole, by two or more ((different kinds of)) entities or utilities((,-(e.g.-)) such as, but not limited to, power, alarm systems, signal lighting and telecommunications((?)).

((35-)) **Ladder** is a device incorporating or employing steps, rungs, or cleats.

**Ladder platform**(<sup>(-)</sup>) is a device designed to facilitate working aloft from an extension ladder. A typical device consists of a platform (approximately 9" x 18") hinged to a welded pipe frame. The rear edge of the platform and the bot-

tom crossmember of the frame are equipped with latches to lock the platform to ladder rungs.

((36-)) **Ladder safety device** is any device, other than a cage or well, designed to arrest the fall of a person using a fixed ladder.

**Ladder seat**((=)) is a removable seat used to facilitate work at an elevated position on rolling ladders in telecommunication centers.

((37-)) **Landing** is an area such as the ground, roof, or platform that provides access/egress for a fixed ladder.

**Laser safety officer** means one who has authority and responsibility to monitor and enforce the control of laser hazards and effect the knowledgeable evaluation and control of lasers.

**Length of climb** is the total vertical distance a person could climb in traveling between the extreme points of access/egress for a fixed ladder, whether the ladder is of an unbroken length or consists of multiple sections. This total vertical distance is determined by including all spaces between all ladder steps or rungs and all other vertical intervening spaces between the extreme points of access/egress.

**Line clearance tree trimming** is the pruning, trimming, repairing, maintaining, removing or clearing of trees or the cutting of brush that is within 10 feet (305 cm) of electric supply lines or equipment.

**Lineman's body belt** is a body support comprised of a strap, at least four inches in width, designed to be compatible with an approved fall restraint system.

**Line truck** is a truck used to transport employees, tools, and material, and to serve as a traveling workshop for telecommunication installation and maintenance work. It is sometimes equipped with a boom and auxiliary equipment for setting poles, digging holes, and elevating material or employees.

**Listed** means equipment that is listed in a publication by a nationally recognized laboratory (such as, but not limited to, UL (Underwriters' Laboratories, Inc.)) that inspects and approves that type of equipment. Listed equipment must also state that the equipment meets nationally recognized standards or has been tested and found safe to use in a specific manner.

**Load chart** is a chart used that is affixed to and specific to the equipment to determine the lifting capacities under specified parameters and an understanding of the working parameters within which the capacities are to be used.

**Load line** means a synthetic or wire rope of sufficient size, durability and strength to raise and lower the intended gross load safely.

**Locking snap hook** is a connecting snap hook that requires two separate forces to open the gate; one to deactivate the gatekeeper and a second to depress and open the gate which automatically closes when released; used to minimize roll out or accidental disengagement.

**Lockout** is placing a lockout device on an energy-isolating device using an established procedure to make sure the machine or equipment cannot be operated until the lockout device is removed.

**Lockout device** is a device that uses a positive means, such as a key or combination lock, to hold an energy-isolat-

ing device in the "safe" or "off" position. This includes blank flanges and bolted slip blinds.

**Manhole**((=)) is a subsurface enclosure which personnel may enter and which is used for the purpose of installing, operating, and maintaining underground and submersible equipment and/or cable.

((38-)) **Manhole platform**((=)) is a platform consisting of separate planks which are laid across ((steel)) platform supports. The ends of the supports are engaged in the manhole cable racks or approved support points designed for human support.

((39-)) **Manlift equipment**((=)) are such types of portable ((truck-mounted)) truck-, trailer-, crane-mounted equipment, such as mechanical, electric or hydraulic ladders and boom-mounted buckets, platforms or cages.

((40-)) **Manual descent control device with automatic lockoff** means a manual descent control device with automatic lockoff features having provision for both "hands-free" and "panic" locking capabilities. The lockoff feature will completely stop the descent if the operator fails to engage the device (hands-free) or panics and operates the device beyond its descent control range (panic) ANSI Z359.4 Descent Control Devices.

**Maximum intended personnel load/gross load** is the total load and weight of all employees; their tools, materials, load lines, and other loads reasonably anticipated to be applied to the hoist apparatus when an employee is hoisted.

**Maximum permissible exposure (MPE)** means the rms and peak electric and magnetic field strength, their squares, or the plane-wave equivalent power densities associated with these fields to which a person may be exposed without harmful effect and with an acceptable safety factor.

**May** (and "should") or "it is recommended" are used to indicate the provisions are not mandatory but are recommended.

**Microwave transmission**((=)) is the act of communicating, sending, receiving or signaling utilizing a frequency between 1 GHz (gigahertz) and 300 GHz inclusively.

((41-)) **Mobile crew** is a work crew that routinely moves to a different work location periodically. Normally a mobile crew is not at the same location all day.

**Multi-use site for towers and antennas** means any site where more than one subscriber has antennas for the use of communication purposes.

**Must** (and "shall") as used in this chapter make the provisions mandatory.

**Nearby facility** is a sanitary facility that is within three minutes travel by the transportation provided.

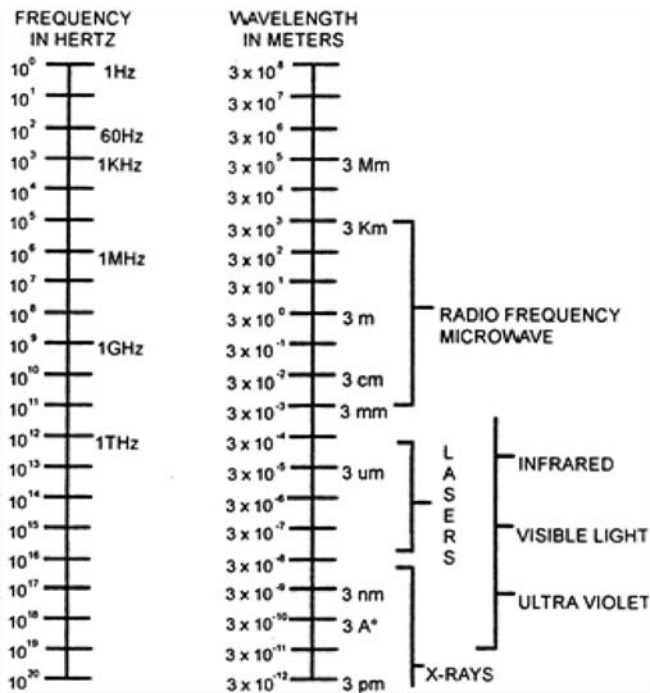
**NEMA** means these initials stand for National Electrical Manufacturing Association.

**Nominal voltage**((=)) The nominal voltage of a system or circuit is the value assigned to a system or circuit of a given voltage class for the purpose of convenient designation. The actual voltage may vary above or below this value.

((42-)) **Nonionizing radiation (RFR) as related to industrial sources** means electromagnetic radiation within the spectral range of approximately 200 nanometers to 3 kilometers including ultraviolet, visible, infrared and radiofrequency/microwave radiation.

## Electromagnetic Spectrum

Figure 1



Normally unattended work location is an unattended site that is visited occasionally by one or more employees.

Oil sample analysis is a method used to evaluate oil, which may not necessarily mean a laboratory analysis, but one that could be effectively accomplished in the field by a qualified person; usually done to evaluate/ascertain the PCB levels or insolative qualities of the oil.

One hundred percent (100 percent) fall protection means each employee exposed to fall hazards above 4 feet while ascending or descending, moving point to point, or working from a platform, crane basket, lift or bucket truck; must be protected by fall protection 100 percent of the time.

Operator (equipment) is a person who runs or operates equipment used in the construction and maintenance of communication systems.

Permissible exposure limits (PELs) refer to a time-weighted average (TWA) of exposure for an eight-hour work day within a forty-hour workweek. Exceptions are those limits which are given a ceiling value.

Personal eyewash units are portable, supplementary units that support plumbed units or self-contained units, or both, by delivering immediate flushing for less than fifteen minutes.

Platform means a work surface elevated above the surrounding floor or ground level.

Pole balcony or seat means a balcony or seat used as a support for ((workers)) employees at pole-mounted equipment or terminal boxes. A typical device consists of a bolted assembly of composite or steel details and a wooden platform. Composite or steel braces run from the pole to the underside of the balcony((- A guard rail (approximately 30" high) may be provided)).

(((43)-)) Pole platform means a platform intended for use by ((a worker)) an employee in splicing and maintenance operations in an elevated position adjacent to a pole. It consists of a platform equipped at one end with a hinged chain binder for securing the platform to a pole. A brace from the pole to the underside of the platform is also provided.

(((44)-)) Portable ladder is a ladder that can be readily moved or carried.

Positioning system is a body belt or full body harness system configured to allow an employee to be supported on an elevated vertical or inclined surface, such as a wall, and work with both hands free from body support.

Positive locking system is a system that creates a mechanical means of ensuring that the connection or interface between two components will not slip.

Potable water is water that you can safely drink that meets specific safety standards prescribed by the United States Environmental Protection Agency's *National Interim Primary Drinking Water Regulations*, published in 40 C.F.R. Part 141 and 40 C.F.R. 147.2400.

Powered lowering is the act of controlled lowering of a load by the use of a system or device in the power train, which can control the lowering speed of the winch assembly.

Prime mover is the system that provides the energy to rotate the winch assembly.

Proficient means a thorough competence derived from training and practice.

Proof test means the act of testing the rigging and hoist mechanism whenever newly rigged or after any changes are made to the hoist mechanism or rigging.

Protection from hazardous voltage means the isolation from or deenergizing of equipment to prevent accidental contact by persons or objects on approach to point of danger.

(((45)-)) Protective devices means those devices such as rubber gloves, rubber boots, rubber blankets, line hose, rubber hoods or other insulating devices, which are specially designed and appropriate for the protection of ((workers)) employees.

(((46)-)) Public highway means every way, land, road, street, boulevard, and every way or place in the state open as matter of right to public vehicular travel, both inside and outside the limit of cities and towns.

(((47)-) "Qualified employee." Any worker who by reason of their training and experience has demonstrated an ability to safely perform their duties.

(48) "Qualified line clearance tree trimmer." A tree worker who through related training and on-the-job experience is familiar with the special techniques and hazards involved in line clearance.

(49) "Qualified line clearance tree trimmer trainee." Any worker regularly assigned to a line clearance tree trimming crew and undergoing on-the-job training who, in the course of such training, has demonstrated their ability to perform duties safely at their level of training.

(50)-)) Pulley is a sheave wheel that is grooved on the outer circumference to hold a wire or synthetic rope in place while turning and allows a mechanical advantage for lifting or a change in direction.

**Qualified climber** means a person who has, by virtue of knowledge, training, and experience, been deemed qualified in writing by his employer to perform tower work.

**Qualified engineer** is a professional engineer knowledgeable and experienced in engineering related practices for communication structures and/or lifting systems and rigging components commonly used in the communication industry.

**Qualified line-clearance tree trimmer** is a tree worker who through related training and on-the-job experience is familiar with the special techniques and hazards involved in line clearance.

**Qualified line-clearance tree trimmer trainee** means any employee regularly assigned to a line-clearance tree-trimming crew and undergoing on-the-job training who, in the course of such training, has demonstrated their ability to perform duties safely at their level of training.

**Qualified person** is one who is familiar with the construction, maintenance, and operation of the equipment and hazards involved, or who has passed a journeyman's examination for the particular branch of the trades with which they may be connected, and trained in the methods necessary to identify and eliminate those hazards. An employee considered to be a qualified person depends on various circumstances in the workplace and on the level of training they have received and demonstrated competency with the tasks required of the job.

**Radio frequency radiation (RFR).** See nonionizing radiation.

**Rated capacity** is the load that a winch assembly may handle under given operating conditions and at a known design factor.

**Record** is any item, documentation, collection, or grouping of information.

**Registered professional engineer (RPE)** is a registered professional engineer licensed under RCW 18.43.040(1).

**Remote site/worksite** is a site/worksite that is over thirty minutes from emergency medical services or does not have reliable communications.

**Rescue** is the process of removing a person from danger, harm, or confinement to a safe location.

**Rescue plan** is a written process that describes in a general manner how rescue is to be approached under the specified parameters, such as location or circumstances.

**Rescue procedure** is a written series of logical steps that describes the specific manner in which rescue is to be accomplished.

**Rescue system** is an assembly of components and sub-systems used for rescue.

**Rescue system, one person** is a rescue system intended to bear only the weight of a single person at one time.

**Rescue system, two persons** is a rescue system intended to bear the weight of up to two persons simultaneously.

**Retraining** means classroom and/or on-the-job instruction required for continued retention of previously learned materials or skills.

**Rigging** means, but is not limited to, chains, slings, ropes, pulleys, hooks, and all accompanying hardware for lifting, lowering, suspending, and fastening loads.

**Rigging plan** is a systematic and detailed presentation showing the equipment and procedures required for a con-

struction process that will provide for the safety of personnel and for the stability of the structure and lifted components.

**Rise** is the vertical distance from the top of a tread to the top of the next higher tread.

**Riser** is the vertical part of the step at the back of a tread that rises to the front of the tread above.

**Rung** means a ladder crosspiece used in climbing or descending. Also called a cleat or step.

**Safety climb system** is an assembly of components whose function is to arrest the fall of a user, including the carrier and its associated attachment elements (e.g., brackets, fasteners), the safety sleeve, and the body support and connectors, wherein the carrier is permanently attached to the climbing face of the ladder or immediately adjacent to the structure.

**Safety sleeve** is the part of a ladder safety system consisting of the moving component with locking mechanism that travels on the carrier and makes the connection between the carrier and the full body harness.

**Safety watch system** is a fall protection system as described in WAC 296-32-22555(10), in which a competent person monitors one worker who is engaged in repair work or servicing equipment on low pitch roofs only.

**Self-retracting lanyard (SRL)** is a self-retracting device suitable for applications in which the device is mounted or anchored so a possible free fall is limited to 2 feet (.6 m) or less.

**Shall** (and "must") as used in this chapter make the provisions mandatory.

**Sheath**((-)) means as applied to sharp tools that effectively covers the tool.

((51-)) **Should** (and "may") or "it is recommended" are used to indicate the provisions are not mandatory but are recommended.

**Side plates** means the side plates of sheaves or double plate attachment points that support the sheave.

**Side-step ladder** is a rail ladder that requires stepping from the ladder in order to reach a landing.

**Similar structures** is any structure that holds equipment relevant to the communication industry.

**Single ladder** is a nonself-supporting portable ladder, nonadjustable in length, consisting of one section. The size is designated by the overall length of the side rail.

**Site/worksite** is any location where communications work is performed or equipment is located to include communications tower or antenna and the surrounding land or property where the tower or antenna work is being performed.

**Slings** are an assembly to be used for lifting when connected to a lifting mechanism. The upper portion of the sling is connected to the lifting mechanism and the lower support the load, such as looped wire rope, synthetic strap, or chain for supporting, cradling, or lifting an object.

**Special-purpose ladder** is a portable ladder that is made by modifying or combining design or construction features of the general-purpose types of ladders in order to adapt the ladder to special or specific uses.

**Special tools and equipment** includes, but is not limited to, high voltage detector and RFR monitor.

**Specular reflection** means a mirror-like reflection.

**Stair railing** is a vertical barrier attached to a stairway with an open side to prevent falls. The top surface of the stair railing is used as a handrail.

**Stairs or stairway** are a series of steps and landings that lead from: One level or floor to another; to platforms, pits, boiler rooms, crossovers, or around machinery, tanks, and other equipment; and are used more or less continuously or routinely by employees, or only occasionally by specific individuals. A stair or stairway may also be defined as having three or more risers.

**Standard safeguard** means safety devices that prevent hazards by their attachment to machinery, appliances, tools, buildings, and equipment. These safeguards must be constructed of metal, wood, or other suitable materials. The department makes the final determination about whether a safeguard is sufficient for its use.

**Static brakes** means brakes used once the motion of the drum has come to a complete stop to prevent creeping or slippage. Static brakes are not necessarily separate from the primary braking system or may be redundant in application. A locking device on a primary braking system may be used.

**Step** is a ladder crosspiece used in climbing or descending. Also called a cleat or rung.

**Step bolt** is a round or flat member affixed to the structure on one end with the other end having a means to prevent the foot from sliding off.

**Structure owner** is the employer responsible for controlling, operating and maintaining the structure.

**Subcontractor** is the employer engaged by the owner or general contractor responsible for completing specific portions of a project in accordance with all applicable specifications.

**System operator/owner**((")) is the person or organization that operates or controls the electrical conductors involved.

~~((52) "Telecommunications center." An))~~ **Tag line and/or trolley line** is a method or system of applying a force to control a load and having the ability to create a space between the load and structure or gin pole.

**Tagout** is placing a tagout device on an energy-isolating device using an established procedure to indicate that the energy-isolating device and the machine or equipment being controlled may not be operated until the tagout device is removed.

**Tagout device** is a prominent warning device, such as a tag and a means of attachment. It can be securely fastened to an energy-isolating device to indicate that the energy-isolating device and the machine or equipment being controlled may not be operated until the tagout device is removed.

**Teardown inspection** is the complete disassembly, cleaning, inspection, and replacement of all worn, cracked, corroded or distorted parts such as pins, bearings, shafts, gears, brake rotors, brake plates, drum, and base that may affect the operation of the winch assembly.

**Telecommunications facility** means a site or installation of communication equipment under the exclusive control of an organization providing telecommunications service, that is located outdoors or in a vault, chamber, or a building space used primarily for such installations.

**Note:** Telecommunication (~~(centers are)~~) facilities are established, equipped and arranged in accordance with engineered plans for the purpose of providing telecommunications service. They may be located on premises owned or leased by the organization providing telecommunication service, or on the premises owned or leased by others. This definition includes switch rooms (whether electromechanical, electronic, or computer controlled), terminal rooms, power rooms, repeater rooms, transmitter and receiver rooms, switchboard operating rooms, cable vaults, and miscellaneous communications equipment rooms. Simulation rooms of telecommunication (~~(centers)~~) facilities for training or developmental purposes are also included.

~~((53) "-")~~ **Telecommunications digger derricks**((")) means rotating or nonrotating derrick structures permanently mounted on vehicles for the purpose of lifting, lowering, or positioning hardware and materials used in telecommunications work.

~~((54) "Telecommunication line truck." A truck used to transport workers, tools, and material, and to serve as a traveling workshop for telecommunication installation and maintenance work. It is sometimes equipped with a boom and auxiliary equipment for setting poles, digging holes, and elevating material or workers.~~

~~((55) "-")~~ **Telecommunication service**((")) is the furnishing of a capability to signal or communicate at a distance by means such as telephone, telegraph, police and fire-alarm, community antenna television, or similar system, using wire, conventional cable, coaxial cable, wave guides, microwave transmission, or other similar means.

~~((56) "-")~~ **Through ladder** is a rail ladder that requires stepping through the ladder in order to reach a landing.

**Tie-off anchorage points** means a secure point of attachment for lifelines, lanyards, or deceleration devices, which is capable of withstanding the forces specified in the applicable sections of chapter 296-155 WAC.

**Time-weighted average (TWA)** is an exposure limit, averaged over eight hours that must not be exceeded during an employee's work shift.

**Toeboard** is a horizontal barrier at floor level erected along all open sides or edges of a floor opening, platform, runway, ramp, or other walking/working surface to prevent materials, tools, or debris from falling onto persons passing through or working in the area below.

**Tower and tower site** see "site."

**Tower construction** is the building of a new tower or structure, or the installation of new equipment on an existing tower or structure.

**Tower inspection** means the procedure in which an employee(s) climb(s) or ride(s) the structure's elevator to visually inspect the tower for safety hazards, potential problems, and test for tower plumbness and guy cable tension.

**Tower maintenance work** means the replacement or work on any device on an existing tower, the repair of existing equipment, and painting.

**Training program** is a program designed to provide education through an established system of designing, developing, delivering, monitoring, evaluating, documenting and managing, safety, health and environmental training.

**Tread** as used in stairs and stair railings summary (see WAC 296-800-250), means the horizontal part of the stair step.

**Tread run** as used in stairs and stair railings summary (see WAC 296-800-250), means the distance from the front of one stair tread to the front of an adjacent tread.

**Tread width** is the distance from front to rear of the same tread including the nose, if used.

**Trial lift** means testing a specified load weight from ground level to the location of where personnel or equipment are to be hoisted.

**Two blocking** means an unsafe condition that occurs on a system when the overhaul ball, hook block, or headache ball on the load line comes in contact with the main load sheave.

**UL (Underwriters' Laboratories, Inc.)** means you will find these initials on electrical cords and equipment. The initials mean the cord or equipment meets the standards set by the Underwriters' Laboratories, Inc.

**Unvented vault**((-)) is an enclosed vault in which the only openings are access openings.

((57-))**Vault**((-)) is an enclosure above or below ground which personnel may enter, and which is used for the purpose of installing, operating, and/or maintaining equipment and/or cable which need not be of submersible design.

((58-))**Vented vault**((-)) is an enclosure ((as described in subsection (57) of this section)), with provision for air changes using exhaust flue stack(s) and low level air intake(s), operating on differentials of pressure and temperature providing for air flow.

((59-)) **Vertical lifeline** is a vertical suspended flexible line used with a fall arrestor system to arrest a fall while a worker is in the act of climbing or stationary. When following the manufacturer's specifications vertical lifelines can be used for other configurations.

**Voltage communications**((-)) means voltage used for electronic communications equipment to which ((workers)) employees or protective equipment may be subjected.

(a) *High* means over 600 volts to ground((-))\_RMS AC or DC or over 1,000 volts RMS across bare parts.

(b) *Medium high* means 151 to 600 volts to ground((-))\_RMS AC or DC or 301 to 1,000 volts RMS AC across any bare parts.

((60-))**Voltage electric supply**((-)) means the maximum effective line voltage to which the ((workers)) employees or protective equipment may be subjected.

(a) *Low* includes voltages from 100 to ((750)) 600 volts.

(b) *High* means those voltages ((in excess of 750)) 601 volts and above.

((61-))**Voltage of an effectively grounded circuit**((- The)) means the highest nominal voltage available between any conductor and ground unless otherwise indicated.

((62-))**Voltage of a circuit not effectively grounded**((- The)) means the highest nominal voltage available between any two conductors. If one circuit is directly connected to and supplied from another circuit of higher voltage (as in the case of an autotransformer), both are considered as of the higher voltage, unless the circuit of lower voltage is effectively grounded, in which case its voltage is not determined by the circuit of higher voltage. Direct connection

implies electric connection as distinguished from connection merely through electromagnetic or electrostatic induction.

**Voltage, nominal** is a value assigned to a circuit or system to designate its voltage class (120/240, 480Y/277, 600, etc.). The actual circuit voltage can vary from the value if it is within a range that permits the equipment to continue operating in a satisfactory manner.

**Watertight** means constructed so that moisture will not enter the enclosure or container.

**Weatherproof** means constructed or protected so that exposure to the weather will not interfere with successful operation. Rainproof, rain tight, or watertight equipment can fulfill the requirements for weatherproof where varying weather conditions other than wetness, such as snow, ice, dust, or temperature extremes, are not a factor.

**Well** is a walled enclosure around a fixed ladder that provides a person climbing the ladder with the same protection as a cage.

**Winch/hoist** means a mechanical device for lifting and lowering loads by winding rope onto or off a drum.

**Wire rope (cable)** is a rope made of strands of metal wire; a cord of metal wire used to operate, suspend or pull a mechanism or wench line.

**Working length** is the length of a nonself-supporting ladder, measured along the rails, from the base support point of the ladder to the point of bearing at the top.

## PART A—GENERAL REQUIREMENTS

**Note:** This part is intended to convey the areas of responsibility for employers when working on telecommunications facilities or locations of any type.

### NEW SECTION

**WAC 296-32-22505 Incorporation of standards of national organizations.** When using standards from national organizations and federal agencies that are referenced in these rules, you must use the edition specified in the rule or any edition published after that specified in the rule in order to be in compliance.

### NEW SECTION

**WAC 296-32-22510 Safe place standard.** (1) No employer shall require any employee to go or be in any employment or place of employment which is not safe.

(2) No employer shall fail or neglect:

(a) To provide safe access to the worksite.

(b) To provide and use safety devices and safeguards.

(c) To adopt and use methods and processes to render the employment and place of employment safe.

(d) To do every other thing reasonably necessary to protect the life and safety of employees.

### NEW SECTION

**WAC 296-32-22511 Host employer/contractor responsibilities.** (1) Host employer responsibilities. Before work begins, the host employer shall inform contract employers of:

(a) The characteristics of the host employer's installation that are related to the safety of the work to be performed and are listed in subsection (4)(a) through (e) of this section;

**Note:** This subsection requires the host employer to obtain information listed in subsection (4)(a) through (e) of this section if it does not have this information in existing records.

(b) Conditions that are related to the safety of the work to be performed, that are listed in subsection (4)(f) through (h) of this section, and that are known to the host employer;

**Note:** For the purposes of this subsection, the host employer need only provide information to contract employers that the host employer can obtain from its existing records through the exercise of reasonable diligence. This subsection does not require the host employer to make inspections of worksite conditions to obtain this information.

(c) Information about the design and operation of the host employer's installation that the contract employer needs to make the assessments required by this chapter; and

**Note:** This subsection requires the host employer to obtain information about the design and operation of its installation that contract employers need to make required assessments if it does not have this information in existing records.

(d) Any other information about the design and operation of the host employer's installation that is known by the host employer, that the contract employer requests, and that is related to the protection of the contract employer's employees.

**Note:** For the purposes of this subsection, the host employer need only provide information to contract employers that the host employer can obtain from its existing records through the exercise of reasonable diligence. This subsection does not require the host employer to make inspections of worksite conditions to obtain this information.

## (2) Contract employer responsibilities.

(a) The contract employer shall ensure that each of its employees is instructed in the hazardous conditions relevant to the employee's work that the contract employer is aware of as a result of information communicated to the contract employer by the host employer under subsection (1) of this section.

(b) Before work begins, the contract employer shall advise the host employer of any unique hazardous conditions presented by the contract employer's work.

(c) The contract employer shall advise the host employer of any unanticipated hazardous conditions found during the contract employer's work that the host employer did not mention under subsection (1) of this section. The contract employer shall provide this information to the host employer within two working days after discovering the hazardous condition.

(3) Joint host- and contract-employer responsibilities. The contract employer and the host employer shall coordinate their work rules and procedures so that each employee of the contract employer and the host employer is protected as required by this section.

(4) Existing characteristics and conditions of the telecommunication site, facility, structure, lines or equipment that are related to the safety of the work to be performed shall be determined before work on or near the site, facility, struc-

ture, lines or equipment is started. Such characteristics and conditions include, but are not limited to:

- (a) The recent condition of poles and/or structures;
- (b) Environmental conditions relating to safety;
- (c) Any abnormalities compromising the integrity of the system;
- (d) Current structure analysis and engineering;
- (e) The presence of hazardous energy sources;
- (f) The nominal voltages of lines and equipment;
- (g) The locations of circuits and equipment, including electric supply lines, communication lines, and fire protective signaling circuits; and
- (h) The condition of protective grounds and equipment grounding conductors.

(5) All communication companies and entities operating, constructing and maintaining communication facilities within the state of Washington must design, construct, operate, and maintain their lines and equipment according to the requirements of:

- (a) The 2017 National Electrical Safety Code (NESC) (ANSI-C2).
- (b) ANSI/TIA 222-G-2005 for structures which have the primary purpose to serve as antenna supporting structures.
- (c) ANSI/TIA - 322, 2016 and ANSI/ASSE A10.48, 2016, Telecommunications construction standards.

## NEW SECTION

**WAC 296-32-22512 Accident prevention program and safety meetings.** (1) Each employer shall develop a written formal accident prevention program as outlined in WAC 296-800-140, tailored to the needs of the particular plant or operation and to the type of hazard involved.

**Note:** The department may be contacted for assistance in developing appropriate programs.

(2) If you employ eleven or more employees on the same shift and at the same location, you must establish a safety committee as required in WAC 296-800-13020.

(3) If you have ten or fewer employees or you have eleven or more employees that work on different shifts with ten or fewer employees on each shift or work in widely separate locations with ten or fewer employees at each location, you may have safety meetings.

(a) The employer shall hold safety meetings at least once a month. Meetings shall be held at a reasonable time and place as selected by the employer.

(b) The employer shall require all employees subject to provisions of this chapter to attend said meetings.

**Note:** Provided the employees whose presence is otherwise required by reason of an emergency or whose function is such that they cannot leave their station or cease their work without serious detriment to the service provided.

(c) Rosters and topics discussed shall be kept for each safety meeting and kept for a period of one year.

(4) For field work, every employer shall conduct crew leader-crew safety meetings and job briefings as follows:

(a) Crew leader-crew safety meetings shall be held at the beginning of each job, and at least weekly thereafter.

(b) Crew leader-crew meetings should be tailored to the particular operation.

(c) Crew leader-crew safety meetings shall address the following:

- (i) Hazards associated with the job.
- (ii) Work procedures involved.
- (iii) Special precautions.
- (iv) Personal protective equipment requirements.
- (d) Attendance shall be documented.
- (e) Subjects discussed shall be documented.

(f) An employee working alone need not conduct a job briefing. However, the employer shall ensure that the tasks to be performed are planned as if a briefing were required.

(5) It shall be the responsibility of management to develop and maintain a written chemical hazard communication program as required by chapter 296-901 WAC, which will provide information to all employees relative to hazardous chemicals or substances to which they are exposed, or may become exposed, in the course of their employment.

#### NEW SECTION

**WAC 296-32-22515 First aid.** This section is designed to assure that all employees in this state are afforded quick and effective first-aid attention in the event of an on-the-job injury.

(1) For fixed locations, the employer must make sure that first-aid trained personnel are available to provide prompt first aid. Designated first-aid trained personnel must have a valid first-aid certificate.

(2) For field work involving two or more employees at a work location, at least two trained persons holding a valid first-aid and CPR certificate shall be available.

(3) First-aid and CPR training for employees in remote sites must have the following additional training:

(a) The definition of first aid.  
 (b) Legal issues of applying first aid (good samaritan laws).

- (c) Basic anatomy.
- (d) Patient assessment and first aid for the following:

- Respiratory arrest.
- Cardiac arrest.
- Hemorrhage.
- Lacerations/abrasions.
- Amputations.
- Musculoskeletal injuries.
- Shock.
- Eye injuries.
- Burns.
- Loss of consciousness.
- Extreme temperature exposure (hypothermia/hyperthermia).

- Paralysis.
- Poisoning.
- Artificial ventilation.

- (e) CPR.
- (f) Applying dressings and slings.
- (g) Treating strains, sprains, and fractures.
- (h) Immobilizing injured persons.
- (i) Handling and transporting injured persons.

(j) Treating bites, stings, or contact with poisonous plants or animals.

(4) Employees working alone must have basic first-aid training and hold a valid first-aid certificate.

(5) The first-aid kits and supplies requirements of the safety and health core rules, WAC 296-800-15020, apply within the scope of this chapter.

(6) When practical, a poster must be fastened and maintained either on or in the cover of each first-aid kit and at or near all phones plainly stating the worksite address or location, and the phone numbers of emergency medical responders for the worksite.

(7) All vehicles used to transport an employee or work crews must be equipped with first-aid supplies.

#### NEW SECTION

**WAC 296-32-22520 Remote communication sites.** (1) During travel and access to remote locations the employer must ensure employees have emergency survival equipment during adverse weather conditions, i.e., winter/extreme winds, which may include, but not be limited to:

- Potable water and food.
- Reliable communication plan.

(2) The number of first-aid kits and supplies must reflect the degree of isolation, the number of employees, and the hazards reasonably anticipated at the worksite.

- Notes:**
- The following should be considered as first-aid supplies required when working at remote sites:
    - Gauze pads (at least 4 x 4 inches).
    - Two large gauze pads (at least 8 x 10 inches).
    - Box adhesive bandages (band-aids).
    - One package gauze roller bandage at least 2 inches wide.
    - Two triangular bandages.
    - Wound cleaning agent such as sealed moistened towelettes.
    - Scissors.
    - At least one blanket.
    - Tweezers.
    - Adhesive tape.
    - Latex gloves.
    - Resuscitation equipment such as resuscitation bag, airway, or pocket mask.
    - Two elastic wraps.
    - Splint.
    - Stretcher.
  - For additional information on first-aid kits and supplies see ANSI/ISEA Z308.1 - 2015.

(3) The employer must maintain the contents of each first-aid kit in a serviceable condition.

**Note:** Site specific rescue plan requirements are located in WAC 296-32-24005(5).

#### NEW SECTION

**WAC 296-32-22525 Training.** (1) Employers shall provide, document, and ensure that employees have received effective training in all of the processes, procedures, precautions, hazards, equipment, personal protective equipment, and safe work practices pertaining to this chapter and job



assignments. The employer shall ensure that employees do not engage in any activities related to this chapter and job assignments until the employees have received proper training.

(2) An employer may accept training records or certificates for previous training if the employer:

(a) Confirms the employee has the current training and knowledge applicable to the new employee's job duties, specific procedures, and equipment being used as required by this chapter.

(b) Uses an examination or interview to make an initial determination that the employee understands the relevant safety related work practices before the employee performs any work covered by this chapter.

(c) Supervises the employee closely until that employee has demonstrated proficiency as required by this chapter.

(3) The employer shall determine, through regular supervision and through inspections conducted on at least an annual basis that each employee is complying with the safety-related work practices required by this chapter.

(4) The employer shall maintain a training program that includes a list of the subject courses and the types of personnel required to receive such instruction. A written description of the training program and a record of employees who have received such training shall be maintained for five years and shall be made available upon request to the director of the department of labor and industries, or his/her authorized representative. The individual who conducts the training must document and verify completion of training.

(5) Such training shall, where appropriate, include the following subjects:

(a) Detailed training on specific work being performed by employees.

(b) Recognition and avoidance of dangers relating to encounters with harmful substances and related hazards, and animal, insect, or plant life.

(c) Procedures to be followed in emergency situations.

(6) "Retraining." When the employer has reason to believe that any employee who has already been trained does not have the understanding and skill, the employer shall retrain that employee. Circumstances where retraining is required include, but are not limited to, situations where:

(a) Changes in the workplace render previous training obsolete;

(b) If new technology, new types of equipment, changes in procedures or job site necessitate the use of safety-related work practices that are different from those which the employee would normally use;

(c) If the supervision and routine inspections indicate that the employee is not complying with the safety-related work practices required by this chapter;

(d) Inadequacies in an employee's knowledge of safety-related work practices or use of equipment indicate that the employee has not retained the requisite understanding or skill; or

(e) If an employee is involved in an accident or near miss incident.

(f) Tasks that are performed less often than once per year will necessitate retraining before the performance of the work practices involved.

NEW SECTION

**WAC 296-32-22530 Employee protection in public work areas.** (1) Before work begins in the vicinity of vehicular or pedestrian traffic that may endanger employees:

(a) Traffic control signs, devices, and barriers must be positioned and used according to the requirements of chapter 296-155 WAC, Part E.

(b) When flaggers are used, employers, responsible contractors and/or project owners must comply with the requirements of WAC 296-155-305.

(2) During hours of darkness, warning lights must be prominently displayed and excavated areas must be enclosed with protective barricades.

(3) When work exposes energized or moving parts that are normally protected, danger signs shall be displayed and barricades erected to warn other personnel in the area.

(4) The employer shall ensure that an employee finding any crossed or fallen wires which create or may create a hazardous situation at the work area:

(a) Remains on guard or adopts other adequate means to warn other employees of the danger; and

(b) Has notified the proper authority or controlling utility at the earliest practical moment.

NEW SECTION

**WAC 296-32-22535 Facilities requirements.** (1) Buildings containing telecommunications facilities. See Table 1.

(a) Illumination. Lighting in telecommunication facilities shall be provided in an amount such that continuing work operations, routine observations, and the passage of employees can be carried out in a safe and healthful manner.

(b) For specific tasks in facilities, such as splicing cable and the maintenance and repair of equipment frame lineups, the employer shall install permanent lighting or portable supplemental lighting to attain a higher level of illumination.

(c) Minimum standards of illumination for industrial interiors must comply with WAC 296-800-210.

(d) Illumination of field work. Whenever natural light is insufficient to illuminate the worksite, artificial illumination shall be provided to enable the employee to perform the work safely.

**Table 1**

<b>Lighting Table</b>		
Activity	Minimum acceptable average lighting level in an area:	Any one single measurement used to determine the average lighting level* cannot be less than:
	<b>(Foot-candles)</b>	<b>(Foot-candles)</b>
Indoor task	10	5
Outdoor task	5	2.5

<b>Lighting Table</b>		
Activity	Minimum acceptable average lighting level in an area:  <b>(Foot-candles)</b>	Any one single measurement used to determine the average lighting level* cannot be less than:  <b>(Foot-candles)</b>
Nontask activities for both indoor and outdoor	3	1.5

\* Lighting levels must be measured at thirty inches above the floor/working surface at the task.

(2) Working spaces.

(a) Space shall be provided for access to all medium high and high voltage equipment.

(b) Every structure, new or old, designed for human occupancy shall be provided with exits to permit the prompt escape of occupants in case of fire or other emergency. The means of egress shall be a continuous and unobstructed way of exit travel from any point in a building or structure to a public way and consist of three separate and distinct parts; the way of exit access, the exit and the way of exit discharge. A means of egress comprises the vertical and horizontal ways of travel and shall include intervening room spaces, doorways, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts and yards.

(c) "Maintenance aisles," or "wiring aisles," between equipment frame lineups are working spaces and are not a means of egress for purposes of WAC 296-800-310.

(3) Special doors.

(a) When blastproof or power actuated doors are installed in specially designed hard site security buildings and spaces, they shall be designed and installed so that they can be used as a means of egress in emergencies.

(b) When high voltage apparatus is isolated in a supplementary enclosure, interlocks shall be provided on all access doors.

(c) Warning signs shall be provided, which are visible both when the guard or cover is in place or removed.

(4) Power plant machinery in telecommunications facilities.

(a) When power plant machinery is operated with commutators and couplings uncovered, the adjacent housing shall be clearly marked to alert personnel to the rotating machinery.

(b) "Employee working" signs, or similar wording shall be placed on switches associated with motors or generators under repair.

(c) Before opening any power circuit, the load shall be reduced.

(d) All power switches on power panels and disconnects shall be in an open position and generator starting mechanisms disabled before maintenance or repair.

(e) When working on the brushes of a machine in operation, employees must use care not to break a circuit. When it is necessary to remove a brush from the holder, the machine must be shut down.

(f) Only fuse pullers specifically designed for that purpose shall be used when replacing cartridge type fuses.

(5) Battery handling.

(a) Eye protection devices which provide side as well as frontal eye protection for employees shall be provided when measuring storage battery specific gravity or handling electrolyte and the employer shall ensure that such devices are used by the employees.

(b) The employer must ensure that appropriate acid resistant gloves, face shields, and aprons are worn for protection against splattering.

(c) Facilities for quick drenching or flushing of the eyes and body meeting the requirements of WAC 296-800-15030 shall be provided while servicing or handling batteries, unless the storage batteries are of the enclosed type and equipped with explosion proof vents, in which case sealed water rinse or neutralizing packs may be substituted for the quick drenching or flushing facilities. Maintenance free batteries do not require an emergency eye wash if no electrolyte or water is added to the battery.

(d) Employees assigned to work with storage batteries shall be instructed in emergency procedures such as dealing with accidental acid spills.

(e) Electrolyte (acid or base, and distilled water) for battery cells shall be mixed in a well-ventilated room. Acid or base shall be poured gradually, while stirring, into the water. Water shall never be poured into concentrated (greater than 75 percent) acid solutions. Electrolyte shall never be placed in metal containers nor stirred with metal objects.

(f) When taking specific gravity readings, the open end of the hydrometer shall be covered with an acid resistant material while moving it from cell to cell to avoid splashing or throwing the electrolyte.

(g) Ventilation shall be provided to ensure diffusion of the gasses from the battery to prevent the accumulation of an explosive type mixture.

(h) Racks and trays shall be substantial and treated to be resistant to the electrolyte.

(i) Floors shall be of acid resistant construction or be protected from acid accumulation.

(6) Transportation and storage of compressed gas cylinders.

(a) Highway mobile vehicles and trailers stored in garages in accordance with WAC 296-24-47513 (4)(b), equipped to carry more than one LP-gas container, but the total capacity of LP-gas containers per work vehicle stored in garages shall not exceed 100 pounds of LP-gas.

(b) All container valves, or other means that positively seals the container, shall be closed when not in use.

(c) Special compartments, racks, or blocking shall be provided and used to prevent cylinder movement when using or transporting nitrogen cylinders.

(d) Regulators shall be removed or guarded before a cylinder is transported.

Notes: • Welding and cutting requirements are located in chapter 296-155 WAC, Part H.

• Compressed gas and compressed gas equipment requirements are located in chapter 296-24 WAC, Parts I and K.

(7) Potable water.

(a) An adequate supply of potable water shall be provided in all places of employment.

(b) Portable containers used to dispense drinking water shall be capable of being tightly closed and equipped with a tap. Water shall not be dipped from containers.

(c) Any container used to distribute drinking water shall be clearly marked as to the nature of its contents and not used for any other purpose.

(d) A common drinking cup is prohibited.

(e) Where single service cups (to be used but once) are supplied, both a sanitary container for the unused cups and a receptacle for disposing of the used cups shall be provided.

(f) All water containers used to furnish drinking water shall be thoroughly cleaned at least once each week or more often as conditions require.

(g) The requirements of this subsection do not apply to mobile crews or to normally unattended work locations as long as employees working at these locations have transportation immediately available, within the normal course of their duties, to nearby facilities otherwise meeting the requirements of this section.

#### NEW SECTION

**WAC 296-32-22540 Tools and personal protective equipment—General.** (1) Personal protective equipment (PPE) - Hazard assessment. The employer must identify hazards or potential hazards in the workplace and determine if PPE is necessary on the job as required by WAC 296-800-16005 and 296-800-16010.

(2) PPE, protective devices and special tools needed for the work of employees shall be provided and the employer shall ensure that they are used by employees.

(a) PPE must be provided at no cost to the employee.

(b) Before each day's use the employer shall ensure that these personal protective devices, tools, and equipment are carefully inspected by a competent person to ascertain that they are in good condition.

(c) Tools found to be defective shall be taken out of service.

(d) Metal tapes, ladders and ropes.

(i) Metal measuring tapes, metal ladders, metal measuring ropes, or tapes containing conductive strands shall not be used when working near exposed energized parts.

(ii) Where it is necessary to measure clearances from energized parts, only nonconductive devices shall be used.

(e) The use of any machinery, tool, material, or equipment which is not in compliance with any applicable requirements of this chapter is prohibited. Such machinery, tool, material, or equipment shall either be identified as unsafe by tagging or locking the controls to render them inoperable or shall be physically removed from its place of operation.

(3) Head protection.

(a) Head protection must meet the requirements of ANSI Z89.1-2014 American National Standard for Industrial Head Protection.

(b) Make sure employees wear appropriate protective helmets when exposed to hazards that could cause a head injury.

**Note:** Examples of this type of hazard include:

- Flying or propelled objects.
- Falling objects or materials.
- Electrical hazards, Class E electrically rated.

(c) Tower workers.

(i) Must wear ANSI Z89.1-2014 Type I Class C climbing helmets while climbing and working at elevations.

(ii) Must wear head protection meeting the requirements of ANSI Z89.1-2014 while performing ground work with overhead hazard exposure.

(4) Eye protection. Employees shall use eye and/or face protection where there is a possibility of injury that can be prevented by such personal protective equipment. In such cases, employers shall make conveniently available a type of protection suitable for the work to be performed, and employees must use such protection.

**Note:** See WAC 296-800-160 for additional personal protective equipment requirements.

(5) Foot protection.

(a) Substantial footwear, made of leather or other equally firm material, shall be worn by employees in any occupation in which there is a danger of injury to the feet through falling or moving objects, or from burning, scalding, cutting, penetration, or like hazard.

(i) The soles and heels of such footwear shall be of a material that will not create a slipping hazard.

(ii) Shoes made of leather or other firm materials that have soft athletic-type soles which would protect employees from foot injuries and at the same time, provide soft and firm footing while working under specialty requirements or with specialty materials are acceptable if meeting safety shoe requirements established by OSHA or ANSI.

(iii) Footwear that has deteriorated to a point where it does not provide the required protection shall not be used.

(b) Traditional tennis shoes, shoes with canvas tops, or thin or soft soled athletic shoes, open toed sandals, slippers, dress shoes or other similar type shoes shall not be worn. Soft or athletic-type soles with uppers of leather or other substantial material may be used where firm footing is desired and where minimal danger of injury to feet from falling or moving objects.

(c) Safety-toe footwear for employees shall meet the requirements and specifications in ASTM, F2413-2011.

(6) Portable power equipment.

(a) All portable power equipment used in the telecommunications industry shall be appropriately grounded.

(b) Nominal 120V, or less, portable generators used for providing power at work locations do not require grounding if the output circuit is completely isolated from the frame of the unit.

(c) Grounding shall be omitted when using soldering irons, guns or wire-wrap tools on telecommunication circuits.

(7) Vehicle-mounted utility generators. Vehicle-mounted utility generators used for providing nominal 240V AC or less for powering portable tools and equipment need

not be grounded to earth if all of the following conditions are met:

(a) One side of the voltage source is solidly strapped to the metallic structure of the vehicle;

(b) Grounding-type outlets are used, with a "grounding" conductor between the outlet grounding terminal and the side of the voltage source that is strapped to the vehicle;

(c) All metallic encased tools and equipment that are powered from this system are equipped with 3-wire cords and grounding-type attachment plugs, except as designated in this subsection.

(d) Under the following conditions the frame of a vehicle may serve as the grounding electrode for a system supplied by a generator located on the vehicle:

(i) The frame of the generator is bonded to the vehicle frame;

(ii) The generator supplies only equipment located on the vehicle and/or cord-connected and plug-connected equipment through receptacles mounted on the vehicle or on the generator;

(iii) The noncurrent-carrying metal parts of equipment and the equipment grounding conductor terminals of the receptacles are bonded to the generator frame; and

(iv) The system complies with all other provisions of this section.

(e) Neutral conductor bonding. A neutral conductor shall be bonded to the generator frame if the generator is a component of a separately derived system. No other conductor need be bonded to the generator frame.

(8) Portable lights, tools and appliances. When operated from commercial power such metal parts of these devices shall be grounded, unless these tools or appliances are protected by a system of double insulation, or its equivalent. Where such a system is employed, the equipment shall be distinctively marked to indicate double insulation.

(9) Fire extinguishers.

(a) Fire extinguishers shall be provided for the protection of both the building structure and the occupancy hazards contained therein conforming to WAC 296-800-300.

(b) All vehicles in the field must have fire extinguishers when performing work that could cause an ignition source.

**Note:** Ignition sources include the following, but are not limited to:

- Welding;
- Cutting;
- Grinding;
- Generator use;
- CAD welding;
- Propane torches; or
- Smoking.

(c) Employees required to use fire extinguishers shall be trained on the location and operation of fire extinguishers.

(d) Any fire extinguishers showing defects shall be removed from service.

(e) Fire extinguishers shall be thoroughly inspected monthly to ensure serviceability.

(f) Fire extinguishers shall be inspected annually, recharged, or repaired to ensure reliability.

(g) Each fire extinguisher shall have a durable tag securely attached to show the maintenance or recharge date

and the initials or signature of the person performing this service.

**Note:** For additional requirements relating to portable fire extinguishers see WAC 296-800-300.

### NEW SECTION

**WAC 296-32-22545 Capstan and cathead hoists.** This section is to provide the minimum requirements for using a capstan hoist for overhead lifting or horizontal pulling during the construction and/or maintenance of communication equipment.

(1) All capstan hoist mechanisms shall meet the applicable requirements for design, construction, installation, testing, inspection, maintenance and operations as prescribed by the manufacturer or the qualified person designing the system.

(2) Catheads or capstans shall not be used to raise or lower personnel or to lift loads directly over personnel that are not directly involved with the lift.

(3) Training. Individuals operating a capstan hoist must be qualified through documented training and demonstrated proficiency. Training shall include, but not be limited to, the following elements:

- (a) Anchorage loading;
- (b) Load testing;
- (c) Electrical loading;
- (d) Capstan load rating;
- (e) Types of synthetic rope;
- (f) Synthetic rope breaking strengths and safety factors;
- (g) Synthetic rope inspection;
- (h) Synthetic rope knots;
- (i) Capstan head alignment;
- (j) Inspection and maintenance;
- (k) Tag line force;
- (l) Solving overlap problems.

(4) The operator will be properly trained and proficient on the operation of catheads or capstans.

(a) The operator must not wear loose clothing.

(b) The operator must not stand in the bite of the pull line.

(5) Foot-operated controls must be located or guarded so that unintentional movement to the "ON" position is not possible.

(6) Inspection. The overall system shall be inspected daily before each use. At a minimum, the inspection shall include the drive train, drum and the anchorage.

(7) During operations, the following requirements must be met:

(a) The electrical drive motor has the proper amount of amperage to operate efficiently with the correct size of breaker;

(b) The extension cords used are the proper size and length;

(c) The hydraulic system has proper pressure to ensure all the valves are operating properly and the hydraulic hoses are in good condition;

(d) The gas engine is maintained properly and in good working order.

(8) Anchorage.

(a) There shall be an appropriate anchorage for the size of the unit being used and the maximum expected load to be lifted.

(b) The anchorage shall be load tested before operations start to 1.5 times the maximum anticipated hoist line pull, or the anchorage shall be qualified based on engineering calculations utilizing a minimum safety factor of two.

(9) Rope.

(a) Only manufacturer approved rope or line shall be used;

(b) Natural fiber rope shall not be used;

(c) Polypropylene material shall not be used;

(d) Frozen rope shall not be used; and

(e) All ropes must be maintained and in good condition.

(f) Ropes shall not be used if there is exposure to corrosive substances, chemicals or heat;

(g) A splice shall not be able to contact the cathead friction service (drum);

(h) Flat mule tape or its equivalent shall not be used unless approved by the manufacturer.

(10) Rope replacement on the drum. In all situations the manufacturer's recommendations shall be followed and at a minimum the rope shall be placed as follows:

(a) A minimum of four wraps are required on the drum;

(b) The rope wraps shall be installed on the drum with the load side on the inside of the drum closest to the motor;

(c) The pull side will be on the outside furthest away from the motor;

(d) The load weight lifted is defined by the number of rope wraps on the drum, type of rope material and the diameter of the rope.

(11) Rope replacement during operations.

(a) During operations there must be a plan for excess rope so that it does not get entangled with other objects or your feet.

(b) Before lifting begins, there must be a plan on how to tie off the load to hold it in place.

(12) Load test.

(a) A load test of the gross load shall be performed.

(b) A rigging plan is required when performing vertical lifts per WAC 296-32-24020.

(c) A separate load test must be performed if the system is altered or rearranged.

(13) Communications and hand signals. The means of hand signals and communication will be determined before the job starts. The operator is responsible for the load during operations. The operator shall have a clear view of the load being lifted and/or the hand signals of the person controlling the load. If there is no clear view, then an alternate method of communication shall be used.

**NEW SECTION**

**WAC 296-32-22550 Rubber insulating equipment.**

(1) Rubber insulating equipment designed for the voltage levels to be encountered shall be provided and the employer shall ensure that they are used by employees as required by this section. The requirements of WAC 296-24-980 Safeguards for personnel protection, shall be followed except for Table 2.

(2) The employer is responsible for periodic retesting of all insulating gloves, blankets, and other rubber insulating equipment. This retesting shall be electrical, visual and mechanical. The following maximum retesting intervals shall apply:

**Table 2**

Gloves, Blankets and Other Insulating Equipment	Natural Rubber (Months)	Synthetic Rubber (Months)
New	12	18
Reissued	9	15

(3) Protector for gloves. Approved protectors must be worn at all times over rubber gloves. Inner liners may be worn if desired.

**Exception:** Protector gloves need not be used with Class O gloves, under limited-use conditions less than 250 volts, where small equipment and parts manipulation necessitate unusually high finger dexterity.

**Note:** Extra care is needed in the visual examination of the glove and in the avoidance of handling sharp objects.

(4) Gloves and blankets shall be marked to indicate compliance with the retest schedule and shall be marked with the date the next test date is due. Any rubber gloves found to be defective shall be removed from service and marked as being defective.

(5) Patching rubber goods is prohibited; rubber protective equipment shall not be vulcanized or patched.

(6) A pair of rubber gloves shall be issued and assigned to each employee when required to work on or be exposed to energized parts. Employees shall not use or share gloves issued to another employee.

(7) Rubber gloves when not in use shall be carried in an approved bag provided and designed for that purpose. It shall be provided by the employer and made available to the employees.

**NEW SECTION**

**WAC 296-32-22555 General fall protection.** (1) The employer shall ensure that all surfaces on which employees will be working or walking on are structurally sound and will support them safely prior to allowing employees to work or walk on them.

(2) Inspection criteria.

(a) All components (including hardware, lanyards, and positioning harnesses or full body harnesses depending on which system is used) of personal fall arrest systems, personal fall restraint systems and positioning device systems shall be inspected prior to each use according to manufacturer's specifications for mildew, wear, damage, and other deterioration. Defective components shall be removed from service if their function or strength has been adversely affected.

(b) Safety nets shall be inspected at least once a week according to manufacturer's specifications for wear, damage, and other deterioration. Safety nets shall also be inspected after any occurrence which could affect the integrity of the

safety net system. Defective components shall be removed from service. Defective nets shall not be used.

(3) Personal fall arrest systems, personal fall restraint systems, positioning device systems, and their components shall be used only for employee protection and not to hoist materials.

Figure 2

Examples of what personal fall arrest, personal fall restraint and positioning device systems look like:



(4) Fall protection required regardless of height.  
 (a) Regardless of height, open sided floors, walkways, platforms, or runways above or adjacent to dangerous equipment, such as water towers or roof tops and material handling equipment, and similar hazards shall be guarded with a standard guardrail system.

(b) Floor holes or floor openings, into which persons can accidentally walk, shall be guarded by either a standard railing with standard toe board on all exposed sides, or a cover of standard strength and construction that is secured against accidental displacement. While the cover is not in place, the floor hole opening shall be protected by a standard railing.

**Note:** Requirements for when guarding floor openings at heights of four feet or more are located in subsection (5)(d) of this section.

(c) Regardless of height, employees shall be protected from falling into or onto impalement hazards, such as: Reinforcing steel (rebar), or exposed steel or wood stakes used to set forms.

(5) Fall protection required at four feet or more.

(a) The employer shall ensure that the appropriate fall protection system is provided, installed, and implemented according to the requirements in this part when employees are exposed to fall hazards of four feet or more to the ground or lower level when on a walking/working surface, towers, poles, or communication structures.

(b) Guarding of walking/working surfaces with unprotected sides and edges. Every open sided walking/working surface or platform four feet or more above adjacent floor or ground level shall be guarded by one of the following fall protection systems.

(i) A standard guardrail system, or the equivalent, as specified in subsection (9)(b) of this section, on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing shall be provided with a standard toe board wherever, beneath the open sides, persons can pass, there is moving machinery, or there is equipment with which falling materials could create a hazard.

(A) When employees are using stilts, the height of the top rail or equivalent member of the standard guardrail system must be increased (or additional railings may be added) an amount equal to the height of the stilts while maintaining the strength specifications of the guardrail system.

(B) Where employees are working on platforms above the protection of the guardrail system, the employer must either increase the height of the guardrail system as specified in (b)(i)(A) of this subsection, or select and implement another fall protection system as specified in (c), (d), (e), (f), or (g) of this subsection.

(C) When guardrails must be temporarily removed to perform a specific task, the area shall be constantly attended by a monitor until the guardrail is replaced. The only duty the monitor shall perform is to warn persons entering the area of the fall hazard.

(D) Guardrails and toe boards may be omitted on distribution frame mezzanine platforms to permit access to equipment. This exemption applies only on the side or sides of the platform facing the frames and only on those portions of the platform adjacent to equipped frames.

(ii) A fall restraint system;

(iii) A personal fall arrest system;

(iv) A safety net system;

(v) A catch platform; and

(vi) A warning line.

(c) Guarding of ramps, runways, and inclined walkways.

(i) Ramps, runways, and inclined walkways that are four feet or more above the ground or lower level shall be equipped with a standard guardrail system or the equivalent, as specified in subsection (9)(b) of this section, along each open side. Wherever tools, machine parts, or materials are likely to be used on the runway, a toe board shall also be installed on each open side to protect persons working or passing below.

(ii) Runways used exclusively for special purposes may have the railing on one side omitted where operating conditions necessitate such omission, provided the falling hazard is minimized by using a runway not less than eighteen inches wide.

(d) Guarding of floor openings.

(i) Floor openings shall be guarded by one of the following fall restraint systems.

(A) A standard guardrail system, or the equivalent, as specified in subsection (9)(b) of this section, on all open sides, except where there is entrance to a ramp, stairway, or fixed ladder. The railing shall be provided with a standard toe board wherever, beneath the open sides, persons can pass, or there is moving machinery, or there is equipment with which falling materials could create a hazard.

(B) A cover, as specified in subsection (9)(c) of this section.

(C) A warning line system erected at least fifteen feet from all unprotected sides or edges of the floor opening and meets the requirements of subsection (9)(d) of this section.

(D) If it becomes necessary to remove the cover, the guardrail system, or the warning line system, then an employee shall remain at the opening until the cover, guardrail system, or warning line system is replaced. The only duty the employee shall perform is to prevent exposure to the fall

hazard by warning persons entering the area of the fall hazard.

(ii) Ladderway floor openings or platforms shall be guarded by standard guardrail system with standard toe boards on all exposed sides, except at entrance to opening, with the passage through the railing either provided with a swinging gate or so offset that a person cannot walk directly into the opening.

(iii) Hatchways and chute floor openings shall be guarded by one of the following:

(A) Hinged covers of standard strength and construction and a standard guardrail system with only one exposed side. When the opening is not in use, the cover shall be closed or the exposed side shall be guarded at both top and intermediate positions by removable standard guardrail systems.

(B) A removable standard guardrail system with toe board on not more than two sides of the opening and fixed standard guardrail system with toe boards on all other exposed sides. The removable railing shall be kept in place when the opening is not in use and shall be hinged or otherwise mounted so as to be conveniently replaceable.

(iv) Wherever there is a danger of falling through an unprotected skylight opening, or the skylight has been installed and is not capable of sustaining the weight of a minimum of eight hundred pounds or the maximum potential load with a safety factor of four, standard guardrails shall be provided on all exposed sides in accordance with subsection (9)(b) of this section or the skylight shall be covered in accordance with subsection (9)(c) of this section. Personal fall arrest equipment may be used as an equivalent means of fall protection when worn by all employees exposed to the fall hazard.

(v) Pits and trap door floor openings shall be guarded by floor opening covers of standard strength and construction. While the cover is not in place, the pit or trap openings shall be protected on all exposed sides by removable standard guardrail system.

(vi) Manhole floor openings shall be guarded by standard covers which need not be hinged in place. While the cover is not in place, the manhole opening shall be protected by standard guardrail system.

(e) Guarding of wall openings.

(i) Wall openings, from which there is a fall hazard of four feet or more, and the bottom of the opening is less than thirty-nine inches above the working surface, shall be guarded as follows:

(A) When the height and placement of the opening in relation to the working surface is such that either a standard rail or intermediate rail will effectively reduce the danger of falling, one or both shall be provided;

(B) The bottom of a wall opening, which is less than four inches above the working surface, regardless of width, shall be protected by a standard toe board or an enclosing screen either of solid construction or as specified in subsection (9)(b)(iii) of this section.

(ii) An extension platform, outside a wall opening, onto which materials can be hoisted for handling shall have standard guardrails on all exposed sides or equivalent. One side of an extension platform may have removable railings in order to facilitate handling materials.

(iii) When a chute is attached to an opening, the provisions of (d)(iii) of this subsection shall apply, except that a toe board is not required.

(f) Fall protection during form and rebar work. When exposed to a fall height of four feet or more, employees placing or tying reinforcing steel on a vertical face are required to be protected by personal fall arrest systems, safety net systems, or positioning device systems.

(g) Fall protection on steep pitched and low pitched roofs.

Steep pitched roofs. Regardless of the work activity, employers shall ensure that employees exposed to fall hazards of four feet or more while working on a roof with a pitch greater than four in twelve use one of the following:

(i) Fall restraint system. Warning line systems are prohibited on steep pitched roofs;

(ii) Fall arrest system; or

(iii) Positioning device system.

(h) Low pitched roofs. Employers shall ensure that employees exposed to fall hazards of four feet or more while engaged in telecommunications work on low pitched roofs use one of the following:

(i) Fall restraint system;

(ii) Fall arrest system;

(iii) Positioning device system;

(iv) Warning line system.

(i) Hazardous slopes. Employees exposed to falls of four feet or more while working on a hazardous slope shall use personal fall restraint systems or positioning device systems.

(j) Working on any surface four feet or more that does not meet the definition of a walking/working surface not already covered in this subsection (5);

(6) Excavation and trenching operations.

(a) Exceptions. Fall protection is not required at excavations four feet or more when employees are:

(i) Directly involved with the excavation process and on the ground at the top edge of the excavation; or

(ii) Working at an excavation site where appropriate sloping of side walls has been implemented as the excavation protective system.

(b) Fall protection is required for employees standing in or working in the affected area of a trench or excavation exposed to a fall hazard of four feet or more and:

(i) The employees are not directly involved with the excavation process; or

(ii) The employees are on the protective system or any other structure in the excavation.

**Note:** Persons considered directly involved in the excavation process include:

- Foreman of the crew.

- Signal person.

- Employee hooking on pipe or other materials.

- Grade person.

- State, county, or city inspectors inspecting the excavation or trench.

- An engineer or other professional conducting a quality-assurance inspection.

(7) Fall protection work plan. The employer shall develop and implement a written fall protection work plan

including each area of the work place where the employees are assigned and where fall hazards of ten feet or more exist.

(a) The fall protection work plan shall:

(i) Identify all fall hazards in the work area;

(ii) Describe the method of fall arrest or fall restraint to be provided;

(iii) Describe the proper procedures for the assembly, maintenance, inspection, and disassembly of the fall protection system to be used;

(iv) Describe the proper procedures for the handling, storage, and securing of tools and materials;

(v) Describe the method of providing overhead protection for employees who may be in, or pass through the area below the worksite;

(vi) Describe the method for prompt, safe removal of injured employees; and

(vii) Be available on the job site for inspection by the department.

(b) Prior to permitting employees into areas where fall hazards exist the employer shall ensure employees are trained and instructed in the items described in (a)(i) through (vii) of this subsection.

(8) Fall arrest specifications. Fall arrest protection shall conform to the following provisions:

(a) Personal fall arrest system shall consist of:

(i) A full body harness shall be used.

(ii) Full body harness systems or components subject to impact loading shall be immediately removed from service and shall not be used again for employee protection unless inspected and determined by a competent person to be undamaged and suitable for reuse.

(iii) Anchorages for full body harness systems shall be capable of supporting (per employee):

(A) Three thousand pounds when used in conjunction with:

(I) A self-retracting lifeline that limits the maximum free fall distances to two feet or less; or

(II) A shock absorbing lanyard that restricts the forces on the body to nine hundred pounds or less.

(B) Five thousand pounds for all other personal fall arrest system applications, or they shall be designed, installed, and used:

(I) As a part of a complete personal fall arrest system which maintains a safety factor of at least two; and

(II) Under the supervision of a qualified person.

(iv) When stopping a fall, personal fall arrest systems must:

(A) Be rigged to allow a maximum free fall distance of six feet so an employee will not contact any lower level;

(B) Limit maximum arresting force on an employee to one thousand eight hundred pounds (8 kN);

(C) Bring an employee to a complete stop and limit maximum deceleration distance an employee travels to three and one-half feet (1.07 m); and

(D) Have sufficient strength to withstand twice the potential impact energy of an employee free falling a maximum distance of six feet (1.8 m).

**Note:** Shock absorbers that meet the requirements of ANSI Z359.13-2013 that are used as a part of a personal fall arrest system in accordance with manufacturer's recommendations and instructions for use and installation will limit the maximum arresting forces on an employee's body to one thousand eight hundred pounds or less.

(v) All safety lines and lanyards shall be protected against being cut or abraded.

(vi) The attachment point of the full body harness shall be located in the center of the wearer's back near shoulder level, or above the wearer's head.

(vii) Hardware shall be drop forged, pressed or formed steel, or made of materials equivalent in strength.

(viii) Hardware shall have a corrosion resistant finish, and all surfaces and edges shall be smooth to prevent damage to the attached full body harness or lanyard.

(ix) When vertical lifelines (droplines) are used, not more than one employee shall be attached to any one lifeline.

**Note:** The system strength needs in the following items are based on a total combined weight of employee and tools of no more than three hundred ten pounds. If combined weight is more than three hundred ten pounds, appropriate allowances must be made or the system will not be in compliance. For more information on system testing, see WAC 296-24-88050 Appendix C—Personal fall arrest system (Part I—Mandatory; Parts II and III—Nonmandatory).

(x) Vertical lifelines (droplines) shall have a minimum breaking strength of five thousand pounds (22.2 kN), except that self-retracting lifelines and lanyards which automatically limit free fall distance to two feet (.61 m) or less shall have a minimum breaking strength of three thousand pounds (13.3 kN).

(xi) Horizontal lifelines shall be designed, installed, and used, under the supervision of a qualified person, as part of a complete personal fall arrest system, which maintains a safety factor of at least two.

(xii) Droplines or lifelines used on rock scaling operations, or in areas where the lifeline may be subjected to cutting or abrasion, shall be a minimum of seven-eighths inch wire core manila rope or equivalent. For all other lifeline applications, a minimum of three-fourths inch manila rope or equivalent, with a minimum breaking strength of five thousand pounds, shall be used.

(xiii) Lanyards shall have a minimum breaking strength of five thousand pounds (22.2 kN).

(xiv) All components of full body harness systems whose strength is not otherwise specified in this subsection shall be capable of supporting a minimum fall impact load of five thousand pounds (22.2 kN) applied at the lanyard point of connection.

(xv) D-rings and snap hooks shall be proof-tested to a minimum tensile load of three thousand six hundred pounds (16 kN) without cracking, breaking, or taking permanent deformation.

(xvi) Snap hooks shall be a locking type snap hook designed and used to prevent disengagement of the snap hook by the contact of the snap hook keeper by the connected member.

(xvii) Unless the snap hook is designed for the following connections, snap hooks shall not be engaged:



- (A) Directly to the webbing, rope or wire rope;
- (B) To each other;
- (C) To a D-ring to which another snap hook or other connector is attached;
- (D) To a horizontal lifeline; or
- (E) To any object which is incompatibly shaped or dimensioned in relation to the snap hook such that unintentional disengagement could occur by the connected object being able to depress the snap hook keeper and release itself.

(b) Safety net systems. Safety net systems and their use shall comply with the following provisions:

(i) Safety nets shall be installed as close as practicable under the surface on which employees are working, but in no case more than thirty feet (9.1 m) below such level unless specifically approved in writing by the manufacturer. The potential fall area to the net shall be unobstructed.

(ii) Safety nets shall extend outward from the outermost projection of the work surface as follows in Table 3:

**Table 3**

Vertical distance from working levels to horizontal plane of net	Minimum required horizontal distance of outer edge of net from the edge of the working surface
Up to 5 feet	8 feet
More than 5 feet up to 10 feet	10 feet
More than 10 feet	13 feet

(iii) Safety nets shall be installed with sufficient clearance under them to prevent contact with the surface or structures below when subjected to an impact force equal to the drop test specified in (b)(iv) of this subsection.

(iv) Safety nets and their installations shall be capable of absorbing an impact force equal to that produced by the drop test.

(A) Except as provided in (b)(iv)(B) of this subsection, safety nets and safety net installations shall be drop-tested at the job site after initial installation and before being used as a fall protection system, whenever relocated, after major repair, and at six-month intervals if left in one place. The drop-test shall consist of a four hundred pound (180 kg) bag of sand  $30 \pm 2$  inches ( $76 \pm 5$  cm) in diameter dropped into the net from the highest walking/working surface at which employees are exposed to fall hazards, but not from less than forty-two inches (1.1 m) above that level.

(B) When the employer can demonstrate that it is unreasonable to perform the drop-test required by (b)(iv)(A) of this subsection, the employer (or a designated competent person) shall certify that the net and net installation is in compliance with (b)(iii) and (iv)(A) of this subsection by preparing a certification record prior to the net being used as a fall protection system. The certification record must include an identification of the net and net installation for which the certification record is being prepared; the date that it was determined that the identified net and net installation were in compliance with (b)(iii) of this subsection and the signature of the person making the determination and certification. The most recent cer-

tification record for each net and net installation shall be available at the job site for inspection.

(v) Materials, scrap pieces, equipment, and tools which have fallen into the safety net shall be removed as soon as possible from the net and at least before the next work shift.

(vi) The maximum size of each safety net mesh opening shall not exceed thirty-six square inches (230 cm<sup>2</sup>) nor be longer than six inches (15 cm) on any side, and the opening, measured center-to-center of mesh ropes or webbing, shall not be longer than six inches (15 cm). All mesh crossings shall be secured to prevent enlargement of the mesh opening.

(vii) Each safety net (or section of it) shall have a border rope or webbing with a minimum breaking strength of five thousand pounds (22.2 kN).

(viii) Connections between safety net panels shall be as strong as integral net components and shall be spaced not more than six inches (15 cm) apart.

(c) Catch platforms.

(i) A catch platform shall be installed within four vertical feet of the work area.

(ii) The catch platform's width shall be a minimum of forty-five inches wide and shall be equipped with standard guardrails and toe boards on all open sides and shall be capable of supporting a minimum of eight hundred pounds or the maximum potential load, with a safety factor of four.

(9) Fall restraint specifications. Fall restraint protection shall conform to the following provisions:

(a) Personal fall restraint systems shall be rigged to allow the movement of employees only as far as the unprotected sides and edges of the walking/working surface, and shall consist of:

(i) A full body harness shall be used.

(ii) The full body harness must be attached to securely rigged restraint lines.

(iii) All hardware assemblies for full body harness shall be capable of withstanding a tension loading of four thousand pounds without cracking, breaking, or taking a permanent deformation.

(iv) The employer shall ensure component compatibility.

(v) Anchorage points used for fall restraint shall be capable of supporting four times the intended load.

(vi) Rope grab devices are prohibited for fall restraint applications unless they are part of a fall restraint system designed specifically for the purpose by the manufacturer, and used in strict accordance with the manufacturer's recommendations and instructions.

(b) Guardrail specifications.

(i) A standard guardrail system shall consist of top rail, intermediate rail, and posts, and shall have a vertical height of thirty-nine to forty-five inches from upper surface of top rail to floor, platform, runway, or ramp level. When conditions warrant, the height of the top edge may exceed the forty-five inch height, provided the guardrail system meets all other criteria of this subsection. The intermediate rail shall be halfway between the top rail and the floor, platform, runway, or ramp. The ends of the rails shall not overhang the terminal posts except where such overhang does not constitute a projection hazard.

(ii) Minimum requirements for standard guardrail systems under various types of construction are specified in the following items:

(A) For wood railings, the posts shall be of at least two-inch by four-inch stock spaced not to exceed eight feet; the top rail shall be of at least two-inch by four-inch stock and each length of lumber shall be smooth surfaced throughout the length of the railing. The intermediate rail shall be of at least one-inch by six-inch stock. Other configurations may be used for the top rail when the configuration meets the requirements of (b)(ii)(G) of this subsection.

(B) For pipe railings, posts and top and intermediate railings shall be at least one and one-half inches nominal OD diameter with posts spaced not more than eight feet on centers. Other configurations may be used for the top rail when the configuration meets the requirements of (b)(ii)(G) of this subsection.

(C) For structural steel railings, posts and top and intermediate rails shall be of two-inch by two-inch by three-eighths inch angles or other metal shapes of equivalent bending strength, with posts spaced not more than eight feet on centers. Other configurations may be used for the top rail when the configuration meets the requirements of (b)(ii)(G) of this subsection.

(D) For wire rope railings, the top and intermediate railings shall meet the strength factor and deflection of (b)(ii)(E) of this subsection. The top railing shall be flagged at not more than six foot intervals with high-visibility material. Posts shall be spaced not more than eight feet on centers. The rope shall be stretched taut and shall be between thirty-nine and forty-five inches in height at all points. Other configurations may be used for the top rail when the configuration meets the requirements of (b)(ii)(G) of this subsection.

(E) The anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure shall be capable of withstanding a load of at least two hundred pounds applied in any direction at any point on the top rail. The top rail shall be between thirty-nine and forty-five inches in height at all points when this force is applied.

(F) Railings receiving heavy stresses from employees trucking or handling materials shall be provided additional strength by the use of heavier stock, closer spacing of posts, bracing, or by other means.

(G) Other types, sizes, and arrangements of railing construction are acceptable, provided they meet the following conditions:

(I) A smooth surfaced top rail at a height above floor, platform, runway, or ramp level between thirty-nine and forty-five inches;

(II) When the two hundred pound (890 N) load specified in (b)(ii)(E) of this subsection is applied in a downward direction, the top edge of the guardrail shall not deflect to a height less than thirty-nine inches (1.0 m) above the walking/working level. Guardrail system components selected and constructed in accordance with this part will be deemed to meet this requirement;

(III) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(IV) Elimination of overhang of rail ends unless such overhang does not constitute a hazard.

(iii) Toe board specifications.

(A) A standard toe board shall be a minimum of four inches nominal in vertical height from its top edge to the level of the floor, platform, runway, or ramp. It shall be securely fastened in place with not more than one-quarter inch clearance above floor level. It may be made of any substantial material, either solid, or with openings not over one inch in greatest dimension.

(B) Where material is piled to such height that a standard toe board does not provide protection, paneling, or screening from floor to intermediate rail or to top rail shall be provided.

(c) Cover specifications.

(i) Floor opening or floor hole covers shall be of any material that meets the following strength requirements:

(A) Conduits, trenches, and manhole covers and their supports, when located in roadways, and vehicular aisles shall be designed to carry a truck rear axle load of at least two times the maximum intended load;

(B) All floor opening and floor hole covers shall be capable of supporting, without failure a minimum of eight hundred pounds or the maximum potential load, with a safety factor of four.

(I) All covers shall be secured when installed so as to prevent accidental displacement by the wind, equipment, or employees.

(II) All covers shall be color coded or they shall be marked with the word "hole" or "cover" to provide warning of the hazard.

(ii) Barriers and screens used to cover wall openings shall meet the following requirements:

(A) Barriers shall be of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least two hundred pounds applied in any direction (except upward), with a minimum of deflection at any point on the top rail or corresponding member.

(B) Screens shall be of such construction and mounting that they are capable of withstanding a load of at least two hundred pounds applied horizontally at any point on the near side of the screen. They may be of solid construction of either grill work with openings not more than eight inches long, or of slat work with openings not more than four inches wide with length unrestricted.

(d) Warning line system specifications on pitches four in twelve or less for telecommunications work, and on low pitched open sided surfaces for work activities. The employer shall ensure the following:

(i) Warning lines shall be erected around all unprotected sides and edges of the work area during telecommunications work.

(A) When telecommunications work is taking place or when mechanical equipment is not being used, the warning line shall be erected not less than six feet (1.8 m) from the edge of the roof.

(B) When mechanical equipment is being used, the warning line shall be erected not less than six feet (1.8 m) from the roof edge which is parallel to the direction of mechanical equipment operation, and not less than ten feet

(3.1 m) from the roof edge which is perpendicular to the direction of mechanical equipment operation.

(C) The employer shall ensure that warning line systems are not used in adverse weather or in hours of darkness.

(ii) The warning line shall consist of a rope, wire, or chain and supporting stanchions erected as follows:

(A) The rope, wire, or chain shall be flagged at not more than six foot (1.8 m) intervals with high visibility material. Highly visible caution or danger tape as described in (d)(ii)(D) of this subsection, does not need to be flagged.

(B) The rope, wire, or chain shall be rigged and supported in such a way that its lowest point (including sag) is no less than thirty-six inches from the surface and its highest point is no more than forty-five inches from the surface.

(C) After being erected, with the rope, wire or chain attached, stanchions shall be capable of resisting, without tipping over, a force of at least sixteen pounds (71 N) applied horizontally against the stanchion, thirty inches (0.76 m) above the surface, perpendicular to the warning line, and in the direction of the unprotected sides or edges of the surface.

(D) The rope, wire, or chain shall have a minimum tensile strength of five hundred pounds (226 k), and after being attached to the stanchions, shall be capable of supporting, without breaking, the loads applied to the stanchions.

(E) The line shall be attached at each stanchion in such a way that pulling on one section of the line between stanchions will not result in slack being taken up in adjacent sections before the stanchion tips over.

(iii) Access paths shall be erected as follows:

(A) Points of access, materials handling areas, and storage areas shall be connected to the work area by a clear access path formed by two warning lines.

(B) When the path to a point of access is not in use, a rope, wire, or chain, equal in strength and height to the warning line, shall be placed across the path at the point where the path intersects the warning line erected around the work area.

(e) When work is being performed between the warning line and edge of the roof the employee must maintain 100 percent fall protection by fall restraint or fall arrest.

(10) Safety watch system specifications.

(a) When one employee is conducting any testing, servicing of equipment or repair work on a roof that has a pitch no greater than four in twelve, and not within six feet of the roof's edge, employers are allowed to use a safety watch system.

(b) Ensure the safety watch system meets the following requirements:

(i) There can only be two people on the roof while the safety watch system is being used: The one employee acting as the safety watch and the one employee engaged in the repair work or servicing equipment;

(ii) The employee performing the task must comply promptly with fall hazard warnings from the safety watch;

(iii) Mechanical equipment is not used; and

(iv) The safety watch system is not used when weather conditions create additional hazards or in the hours of darkness.

(c) Ensure the employee acting as the safety watch meets all of the following:

(i) Is a competent person as defined in WAC 296-32-210;

(ii) Has full control over the work as it relates to fall protection;

(iii) Has a clear, unobstructed view of the worker;

(iv) Is able to maintain normal voice communication; and

(v) Performs no other duties while acting as the safety watch.

(11) Other specifications.

(a) Ramps, runways and inclined walkways shall:

(i) Be at least eighteen inches wide; and

(ii) Not be inclined more than twenty degrees from horizontal and when inclined, they shall be cleated or otherwise treated to prevent a slipping hazard on the walking surface.

**Note:** See WAC 296-32-22555 (5)(c) for guarding ramps, runways, and inclined walkways that are four feet or more above the ground or lower level.

(b) Self-rescue devices. Self-rescue devices are not a fall protection system. Self-rescue devices used to self-rescue after a fall shall meet the following requirements:

(i) Use self-rescue devices according to the manufacturer's instructions; and

(ii) Self-rescue devices must be addressed by the fall protection work plan.

(c) Canopy. Canopies, when used as falling object protection, shall be strong enough to prevent collapse and to prevent penetration by any objects which may fall onto the canopy.

(d) Roofing bracket specifications. Roofing brackets are not a fall protection system.

(i) Roofing brackets shall be constructed to fit the pitch of the roof.

(ii) In addition to securing brackets using the pointed metal projections, brackets shall also be secured in place by nailing. When it is impractical to nail brackets, rope supports shall be used. When rope supports are used, they shall consist of first grade manila of at least three-quarters inch diameter, or equivalent.

(e) Roof edge materials handling areas and materials storage specifications.

(i) When guardrails are used at hoisting areas, a minimum of four feet of guardrail shall be erected along each side of the access point through which materials are hoisted.

(ii) A chain or gate shall be placed across the opening between the guardrail sections when hoisting operations are not taking place.

(iii) When guardrails are used at bitumen pipe outlet, a minimum of four feet of guardrail shall be erected along each side of the pipe.

(iv) Mechanical equipment shall be used or stored only in areas where employees are protected using a fall arrest system as described in WAC 296-32-22555(8), or a fall restraint system as described in WAC 296-32-22555 (9)(b) or (d). Mechanical equipment may not be used or stored where the only protection is provided by the use of a safety monitor.

(v) The hoist shall not be used as an attachment/anchorage point for fall arrest or fall restraint systems.

(vi) Materials shall not be stored within six feet of the roof edge unless guardrails are erected at the roof edge.

Guardrails shall include a toe board if employees could be working or passing below.

#### NEW SECTION

**WAC 296-32-22560 Ladders.** (1) The employer shall ensure that no employee nor any material or equipment shall be supported or permitted to be supported on any portion of a ladder unless it is first determined, by inspections and checks conducted by a competent person that such ladder is free of defects, in good condition and secured in place.

(2) The spacing between steps or rungs permanently installed on poles and towers shall be no more than eighteen inches (thirty-six inches on any one side). This requirement also applies to fixed ladders on towers, when towers are so equipped. Spacing between steps shall be uniform above the initial unstepped section, except where working, standing, or access steps are required. Fixed ladder rungs and step rungs for poles and towers shall have a minimum diameter of 5/8 inch. Fixed ladder rungs shall have a minimum clear width of twelve inches. Steps for poles and towers shall have a minimum clear width of 4 1/2 inches. The spacing between detachable steps may not exceed thirty inches on any one side, and these steps shall be secured when in use.

(3) Portable wood ladders intended for general use must not be painted, but may be coated with a translucent nonconductive coating. Portable wood ladders must not be longitudinally reinforced with metal.

(4) Portable wood and fiberglass ladders that are not being carried on vehicles and are not in active use shall be stored where they will not be exposed to the elements and where there is good ventilation.

(5) Aluminum or conductive ladders may not be used on a work site that contains potential electrical hazards.

(6) Rolling ladders.

(a) Rolling ladders used in telecommunication facilities shall have a width between the side rails, inside to inside, of at least twelve inches.

(b) Except in working spaces that are not a means of egress, the ladders shall have a minimum inside width, between the side rails, of at least eight inches.

(7) Climbing ladders or stairways on scaffolds used for access and egress shall be affixed or built into the scaffold by proper design and engineering, and shall be so located that their use will not disturb the stability of the scaffold. The rungs of the climbing device shall be equally spaced, but may not be less than twelve inches nominal nor more than sixteen inches nominal apart. Horizontal end rungs used for platform support may also be utilized as a climbing device if such rungs meet the spacing requirement of this subsection, and if clearance between the rung and the edge of the platform is sufficient to afford a secure handhold. If a portable ladder is affixed to the scaffold, it shall be securely attached and shall have rungs meeting the spacing requirements of this subsection. Clearance shall be provided in the back of the ladder of not less than six inches from center of rung to the nearest scaffold structural member.

(8) When using ladder hooks: Employees must secure themselves to the ladder and aerial strand by:

(a) A lineman's belt and strap; or

(b) Ladder safety equipment if provided.

(9) Portable ladders, when in use, shall be:

(a) Equipped with safety shoes; and

(b) Equipped with properly adjusted locking levelers when working on uneven ground.

(10) Ladders shall be inspected by a competent person prior to each use. Ladders which have developed defects shall be withdrawn from service for repair or destruction and tagged or marked as "dangerous do not use."

(11) Persons on ladders. Ladders must not be moved, shifted or adjusted while anyone is on the ladder. Secure the ladder at the top and bottom when working from it.

**Note:** See chapter 296-876 WAC for additional safety requirements on ladders.

#### NEW SECTION

**WAC 296-32-22565 Vehicle-mounted material handling devices and other mechanical equipment.** (1) General. The applicable operator/owner safety manual for vehicle-mounted material handling devices and other mechanical equipment must be followed. The manufacturer's operator's instructional manual shall be kept on the vehicle.

(a) The operation of all motor vehicles and trailers shall be in conformance with the motor vehicle laws, the general safety and health standards of the state of Washington and all local traffic ordinances.

(b) The employer must ensure that prior to use, visual inspections are made of the equipment by a competent person/operator each day the equipment is to be used to ascertain that it is in good condition.

(c) The employer must ensure that tests shall be made at the beginning of each shift by a competent person to ensure the vehicle brakes and all operating systems are in proper working condition.

(2) Scrapers, loaders, dozers, graders and tractors. All mobile, self-propelled scrapers, mobile front end loaders, mobile dozers, agricultural and industrial tractors, crawler tractors, crawler-type loaders, and motor graders used in telecommunication work shall have rollover protective structures that meet the requirements of WAC 296-155-950 through 296-155-965, and the requirements of WAC 296-155-615 (1) through (2)(c).

#### NEW SECTION

**WAC 296-32-22570 Communication, roof tops, water towers and other elevated locations.** For fall protection, guardrails and warning lines follow the requirements in WAC 296-32-22555 of this chapter.

#### NEW SECTION

**WAC 296-32-22572 Microwave transmission/radio frequency radiation (RFR) and laser communication—General requirements.** (1) General. Employers shall ensure that employees performing work on communication sites/facilities are not exposed to radio frequency (RFR) electromagnetic fields in excess of the Federal Communications Commission (FCC) maximum permissible exposure (MPE) limits for exposure as prescribed in 47 C.F.R. 1.1310.

**Note:** See chart in WAC 296-32-210 under the definition of "nonionizing radiation (RFR)."

(2) RF safety program. The employer shall establish and maintain a program for the control and monitoring of nonionizing radiation hazards. This program shall provide employees adequate supervision, training, facilities, equipment, and supplies, for the control and assessment of nonionizing hazards.

(3) Prior to commencing work where there are potential RFR hazards, a competent person shall assess potential RFR hazards of areas which may be accessed by employees in the course of their work, and post temporary signage to indicate areas where the RFR hazard exceeds the general population/uncontrolled MPE limits for exposure set forth in 47 C.F.R. 1.1310. Temporary signage shall remain in place while work is performed and the hazard exists.

**Note:** Temporary signage posting areas may include doorways, gates, or hatches.

**NEW SECTION**

**WAC 296-32-22574 Hazardous areas.** Protection from radiation exposure.

(1) Employees shall not enter areas where radio frequency radiation (RFR) exposure levels are above the general population/uncontrolled MPEs described in 47 C.F.R. 1.1310 unless they understand the potential for exposure and can exercise control over the exposure.

(2) Hazardous area. Accessible areas associated with communication systems where the electromagnetic radiation level exceeds the maximum permissible exposure limits (PELs) given in WAC 296-62-09005 shall be posted as described in that section.

**Note:** ANSI 535.1, 2006, Safety Colors, ANSI C95.2, 1999, IEEE Standard for Radio Frequency Energy and Current Flow Symbols, ANSI Z535.2, 2011, Environmental and Safety Signs contains additional information relating to signage.

(3) Protective measures. When an employee works in an area where the electromagnetic radiation exceeds the radiation protection guide, the employer shall institute measures that ensure that the employee's exposure is not greater than that permitted by the radiation guide. Such measures shall include, but not be limited to, those of an administrative or engineering nature or those involving personal protective equipment. Employers must have monitoring devices on each site while work is being performed.

(4) Radiofrequency radiation exposure limits. The criteria listed in Table 4 shall be used to evaluate the environmental impact of human exposure to radiofrequency (RF) radiation as specified in 47 C.F.R. Sec. 1.1307(b), except in the case of portable devices which shall be evaluated according to the provisions of 47 C.F.R. Sec. 2.1093. Further information on evaluating compliance with these limits can be found in the FCC's OST/OET Bulletin Number 65, "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation." **Note to Introductory Paragraph:** These limits are generally based on recommended exposure guidelines published by the National Council on Radiation Protection and Measurements (NCRP) in "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," NCRP Report No. 86, sections 17.4.1, 17.4.1.1, 17.4.2 and 17.4.3. Copyright NCRP, 1986, Bethesda, Maryland 20814. In the frequency range from 100 MHz to 1500 MHz, exposure limits for field strength and power density are also generally based on guidelines recommended by the American National Standards Institute (ANSI) in section 4.1 of "IEEE Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," ANSI/IEEE C95.1-1992, Copyright 1992 by the Institute of Electrical and Electronics Engineers, Inc., New York, New York 10017.

**Table 4**

Table 4—Limits for Maximum Permissible Exposure (MPE) Frequency range (MHz)	Electric field strength (V/m)	Magnetic field strength (A/m)	Power density (mW/cm <sup>2</sup> )	Averaging time (minutes)
<b>(A) Limits for Occupational/Controlled Exposures</b>				
0.3-3.0	614	1.63	*(100)	6
3.0-30	1842/f	4.89/f	*(900/f <sup>2</sup> )	6
30-300	61.4	0.163	1.0	6
300-1500			f/300	6
1500-100,000			5	6
<b>(B) Limits for General Population/Uncontrolled Exposure</b>				
0.3-1.34	614	1.63	*(100)	30
1.34-30	824/f	2.19/f	*(180/f <sup>2</sup> )	30
30-300	27.5	0.073	0.2	30
300-1500			f/1500	30
1500-100,000			1.0	30

f = frequency in MHz

\* = Plane-wave equivalent power density

**Note 1 to Table 4:** Occupational/controlled limits apply in situations in which persons are exposed as a consequence of their employment provided those persons are fully aware of the potential for exposure and can exercise control over their exposure. Limits for occupational/controlled exposure also apply in situations when an individual is transient through a location where occupational/controlled limits apply provided he or she is made aware of the potential for exposure.

**Note 2 to Table 4:** General population/uncontrolled exposures apply in situations in which the general public may be exposed, or in which persons that are exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure.

## NEW SECTION

**WAC 296-32-22576 Optical communications systems (laser).** (1) Laser radiation permissible exposure limits.

(2) All lasers and laser systems shall be classified in accordance with the Federal Laser Product Performance Standards (21 C.F.R. 1040.10) or, in accordance with ANSI Z136.2-2012 and ANSI Z136.1-2014.

(a) Class I laser systems that are considered to be incapable of producing damaging radiation levels during operation and are thereby exempt from control measures or other forms of surveillance.

(b) Class 1M laser systems that are considered to be incapable of producing hazardous exposure conditions during normal operations unless the beam is viewed with an optical instrument such as eye-loupe (diverging beam) or telescope (collimated beam) and are, thereby exempt from other forms of surveillance.

(c) Class II laser systems emit in the visible portion of the spectrum (0.4  $\mu\text{m}$  to 0.7  $\mu\text{m}$ ) and eye protection is normally afforded by aversion responses, including the blink reflex. There is some possibility of injury if stared at.

(d) Class IIM laser systems emit in the visible portion of the spectrum (0.4  $\mu\text{m}$  to 0.7  $\mu\text{m}$ ) and eye protection is normally afforded by aversion responses (blink reflex) for unaided viewing, but are potentially hazardous if viewed with certain optical aids.

(e) Class IIIR laser systems have reduced product safety requirements and represent a transitional zone between safe and hazardous laser products.

(f) Class IIIB laser systems may be hazardous under direct and specular reflection viewing conditions, but the diffuse reflection is usually not a hazard. Class IIIB laser systems are normally not a fire hazard.

(g) Class IV (high power) laser systems are hazardous to the eye and skin from the direct beam, and sometimes from a diffuse reflection, and can also be a fire hazard. Class IV systems require the use of controls that prevent exposure of the eye and skin to specular or diffuse reflections of the beam.

(3) You must have a laser safety officer for installation and maintenance of all Class IIIB or Class IV laser systems.

(4) Warning signs and classification labels shall be prepared in accordance with 21 C.F.R. 1040.10 when classifying lasers and laser systems, and ANSI Z136.1-2014 when using classified lasers and laser systems. All signs and labels shall be conspicuously displayed.

(a) The signal word "CAUTION" shall be used with all signs and labels associated with Class II and Class IIIR lasers and laser systems.

(b) The signal word "DANGER" shall be used with all signs and labels associated with Class IIIB and Class IV lasers and laser systems.

(5) Personal protective equipment shall be provided at no cost to the employee and shall be worn whenever operational conditions or maintenance of lasers may result in a potentially hazardous exposure.

(a) Protective eyewear shall be specifically designed for protection against radiation of the wavelength and radiant energy of the laser or laser system. Ocular exposure shall not exceed the limits in ANSI Z136.1-2014 and ANSI Z136.2-2012.

(b) For Class IV lasers and laser systems protective eyewear shall be worn for all operational conditions or maintenance which may result in exposures to laser radiation.

(6) You must establish control of hazardous laser radiation energy prior to work on Class IIIB or Class IV laser equipment. Controls may include, but are not limited to: Protective housings, interlocks, optical system attenuators, enclosed beam paths, beam stops, and emission delays with audible warnings.

**Note:** See WAC 296-32-22578 Control of hazardous energy for additional requirements.

(7) All employees who may be exposed to laser radiation shall receive laser safety training. The training shall ensure that the employees are knowledgeable of the potential hazards and control measures for the laser equipment in use.

(8) Fiber splicing.

(a) Employees must wear safety glasses with side shields or goggles while splicing fiber.

(b) Food and beverages are prohibited in the work area of fiber splicing operations.

(c) Employees must place all cut fiber pieces in a safe place.

(d) Smoking and open flames are prohibited in the work area of fiber splicing operations when using flammable chemicals.

(e) The work area must be well ventilated when using cleaning chemicals and adhesives during fiber splicing/repair operations or where the potential of other hazardous atmospheres exists. Use air monitoring equipment to ensure the work area is adequately ventilated.

(f) Looking directly into the end of fiber cables is prohibited (especially with a microscope) until you are positive that there is no light source at the other end.

(g) You must have safety data sheets (SDSs) readily available during all fiber splicing operations (see chapter 296-901 WAC).

## NEW SECTION

**WAC 296-32-22578 Control of hazardous energy.**

This section establishes protection for employees who work directly in the hazardous vicinity of telecommunication facilities, sites, or towers having the following energy:

- Radio frequency radiation (RFR);
- Laser, see WAC 296-62-09005(4);

- Microwave;
- AM or FM;
- High intensity electromagnetic fields.

**Note:** Employees exposed to all other types of hazardous energy are required to follow chapter 296-803 WAC.

(1) Employees working in the telecommunication industry that may be exposed to RFR as well as other hazardous energy, the employer must ensure their safety by following this chapter for RFR as well as chapter 296-803 WAC for other hazardous energy.

(2) The employer must effectively control all forms of hazardous energy under this section by:

- (a) Elimination;
- (b) Isolation;

(c) Reduction to permissible exposure limits, otherwise known as alternative effective means (see WAC 296-32-22574 for maximum permissible exposure limits (MPE limits)).

(d) If a source of energy is controlled by alternative effective means, it must be tagged out.

(e) If a source of energy is eliminated or isolated but cannot be locked out, it must be tagged out.

(3) The host employer in control of the energy source must establish a control of hazardous energy program that is effective for 30-300 mhz and UHF broadcast bands; see WAC 296-32-22511 for additional requirements relating to host/contractor responsibilities.

(4) The employer must ensure that site specific energy source data and contact information is available and current at each telecommunication site/facility.

(5) The employer must establish and implement a hazardous energy control program to prevent the accidental or purposeful increase or release of energy if employees are to work in the hazardous vicinity of any telecommunication sites/facilities where employees could be exposed to any of the following energies:

- (a) RFR (30-300 mhz) and UHF broadcast bands;
- (b) Laser;
- (c) Microwave;
- (d) AM or FM;
- (e) High intensity electromagnetic fields.

**Note:** Additional information is located in WAC 296-62-09005.

(6) The employer must ensure that undetermined or unknown levels of energy shall be considered hazardous until they are clearly verified.

(7) The employer must ensure the hazardous energy control program consists of all the following elements:

(a) Host/contractor employer responsibilities as described in WAC 296-32-22511 of this chapter;

(b) Energy control procedures as described in subsections (11) through (13) of this section;

(c) Approved test procedures determined by the Federal Communications Commission (FCC) OET65 used to ensure that the area is safe for human presence;

(d) Training as described in subsections (14) through (17) of this section;

(e) Annual reviews as described in subsection (19) of this section;

(f) Tower and worksite evaluations as described in subsection (20) of this section;

(g) Procedures for removing an authorized person(s) lockout or tagout device;

(h) Procedures for alternative effective means and application/removal of tagout devices.

(8) The employer must make sure energy control procedures clearly and specifically outline:

(a) The scope, purpose, authorization, rules, and techniques to shut down or reduce hazardous energy to within the MPE limits before working within a hazardous vicinity; and

(b) How you will ensure employees follow the procedures.

(9) The employer must keep written energy control procedures and records of energy levels, for the elimination, isolation or effectively reducing hazardous energy to within MPE limits for the duration of each job being performed for twelve months.

(10) Employers able to increase amplification of energy must make themselves familiar of this chapter and comply with protections afforded to personnel while work is being completed under the scope of this chapter. Employers able to and responsible for increasing amplification must follow the requirements located in WAC 296-32-22511, and those employers with employees being exposed to hazardous energy.

(11) The employer of the affected and authorized employees must notify the employer of the controlling energy source and employers able to and responsible for increasing amplification when they will be on-site and the need for the controlling energy source to be reduced to a safe level or turned off.

(12) The employer of the controlling energy source must notify the employer of the affected and authorized employees that the controlling energy source has been reduced to within the MPE limits or turned off completely before work begins.

(13) The employer must ensure affected and authorized employees must test to ensure the energy source has been reduced to within the MPE limits or isolated or eliminated by testing and verification through approved methods and equipment.

(14) The employer must ensure that written energy control procedures are in a language comprehensible by each employee working on or around the hazardous vicinity of a telecommunication site/facility.

(15) The employer must make sure energy control procedures specifically identify at least the following: (This includes remote control sites/facilities and remote worksites.)

(a) What personnel are considered affected or authorized, and how to contact;

(b) What location and equipment the procedure is verified for;

(c) When the procedure must be used;

(d) How the procedure is verified to be up-to-date and accurate;

(e) What the specific procedural steps are for:

(i) Notifying employers able to increase amplification;

(ii) Notifying all affected personnel;

(iii) Shutting down or reduction to within the MPE limits;

- (iv) Eliminating or isolating the energy source;
- (v) Securing the energy source;
- (vi) Placing, removing, and transferring lockout/tagout devices and who is responsible for them;
- (vii) How to test the machine or equipment to verify the effectiveness of lockout devices, reduction to MPE limits, and other energy control measures.

(16) The employer must ensure that when reducing hazardous energy to within the MPE limits (alternative effective means) the employees in hazardous areas must be trained to all requirements in this section.

(17) Training.

(a) You must effectively train employees and establish proficiency on this chapter and your site specific hazards to ensure they:

- (i) Understand the purpose and function of the energy control program; and
- (ii) Have the knowledge and skills necessary to carry out their responsibilities safely.

**Note:** Additional and supplemental training for other forms of hazardous energy are covered under chapter 296-803 WAC.

(b) You must establish proficiency for each employee in a language comprehensible in all of the following:

- (i) Identification of the type(s) and magnitude of energy available on a telecommunication site/facility.
- (ii) Recognizing hazardous energy sources that are potential and present.
- (iii) Methods to eliminate, isolate or reduce to within the MPE limits:

(A) Which type of control (elimination, isolation or reducing to within the MPE limits) affords the best protection to the employee; and

(B) What steps must be supplemented with additional safeguards when using alternative effective means under (c) of this subsection.

(iv) The purpose and use of the energy control procedures listed in this chapter;

(v) Lockout, tagout and alternate effective means systems, devices, procedures and processes to be used;

(vi) Control of hazardous energy procedures to be used;

(vii) Prohibition against attempting to restart, reenergize, amplify or touch a machine or equipment that has been locked out or controlled through alternate effective means;

(viii) That lockout is the primary method of energy control, and that other means do not provide equal protection;

(ix) Means and methods of communication with the employers responsible for and able to increase amplification.

(c) Required supplementary training for alternative effective means. You must establish additional proficiency if you use alternate effective means as energy control. This additional preparation must include the following:

(i) When the employer is permitted to reduce the energy to within the MPE limits only if it is infeasible to lockout the energy source;

(ii) The process for contacting all employers who have potential to increase amplification on any equipment, component, transmitter or receiver on the telecommunication site/facility which creates a hazardous vicinity;

(iii) The process for documentation of the methods required for reducing to within the MPE limits;

(iv) That alternate effective means are not as effective as lockout;

(v) That alternate effective means rely upon someone else for your protection;

(vi) That alternate effective means give a false sense of security;

(vii) Authorization for use of alternate effective means must:

(A) Be in a language comprehensible by all affected and authorized employees;

(B) Be documented by authorized employees;

(C) Be documented by employers responsible for and able to increase amplification.

(viii) Selection and use of personnel RFR metering/monitoring devices;

(ix) Emergency procedures and contact requirements in the event of energy control failure;

(x) Personal protective equipment and RFR suits/etc. used for protection:

(A) Donning and doffing procedures;

(B) Specifications/inspection/life expectancy;

(C) Cleaning;

(D) Wear and tear.

(d) You must document that employee training has been completed and kept up to date according to WAC 296-32-22525. It must be supplemented with the additional requirements, including all documents/videos/supporting information used in the training.

**Note:** Training records may be electronic.

(18) Retraining.

(a) Retraining shall be provided for all authorized and affected employees whenever there is a change in their job assignments, a change in machines, equipment, or processes that present a new hazard or whenever there is a change in the energy control procedures.

(b) Retraining shall also be conducted whenever a periodic inspection reveals, or whenever the employer has reason to believe, that there are deviations from or inadequacies in an employee's knowledge or use of the energy control procedures.

(c) The retraining shall reestablish employee proficiency and shall introduce new or revised control methods and procedures, as necessary.

(d) The employer shall certify that employee training has been accomplished and is being kept up to date. The certification shall contain each employee's name and dates of training.

(19) Annual inspection/review.

(a) The controlling employer of the energy source must conduct an inspection/review of the equipment shut-down or alternative effective means' procedures at least annually to:

(i) Make sure employees know and have been applying the energy control procedures appropriate for the work and hazards;

(ii) Correct any deviations or inadequacies identified as well as identify unique hazards;

(iii) Inform all contractors, leasees, subcontractors of retraining that needs to occur due to changes, modifications or additions.



(b) The controlling employer of the energy source must perform an annual inspection/review:

(i) The annual inspection/review shall be performed by an authorized employee who is not using the energy control procedures being inspected;

(ii) The employer of the exposed and affected employees conducting work on the communication site/facility must ensure that the annual inspection/review has been performed by the controlling employer of the energy source.

(c) The employer must ensure that the annual inspection/review is documented and that the documentation includes all of the following:

(i) Equipment energy control procedures for the devices and components which possess hazardous energy potential that are to be eliminated, isolated, or reduced to within MPE limits;

(ii) Date of the inspection/review;

(iii) Employees included that have performed the procedures for the previous year;

(iv) Person doing the inspection/review.

(d) The annual inspection/review and any deviations must be kept on-site for one year. All forms of documentation must be kept for life of the equipment or twenty years, whichever comes first.

(20) Site/facility evaluations.

(a) The employer of the controlling energy source must conduct, document and retain telecommunication site/facility location evaluations.

(b) The employer of the controlling energy source must ensure that telecommunication sites/facilities location evaluations required under WAC 296-32-24005 (5), (6), (7) are supplemented with:

(i) A topographic map of the exact field location and any site/facility within a predicted worst-case power density distance as outlined in the FCC Office of Engineering of Technology, Bulletin 65, Edition 97-01;

(ii) A comprehensive cross sectional diagram of the structure, and where antennas, transmitting devices and other apparatuses are located;

(iii) A comprehensive cross sectional diagram of the structure's hazardous energy and hazardous vicinity associated with each of the sources;

(iv) The host employer/contractor responsible (carrier, leasee or renter) party's contact information for each of the antennas, transmitters, and/or apparatus;

(v) Contact information for any employer who is able to increase amplification on the telecommunication site/facility being worked on, or any site/facility within the hazardous vicinity or able to transmit hazardous energy to employees at the job site's location;

(vi) Contact information of the site/facility owner;

(vii) A listing of work completed on the site/facility in the last twelve months.

(c) Information in the telecommunication site/facility location evaluations must be easily comprehensible by any employee conducting work on, or within the hazardous vicinity of the site.

(21) Energy control and devices.

(a) The employer must provide appropriate means to control energy through elimination, isolation, or alternative effective means from energy sources.

(b) The employer must make sure lockout and tagout devices meet all of the following:

(i) Create no additional hazards;

(ii) Have a distinctive design or appearance;

(iii) Are the only devices used for controlling energy;

(iv) Are not used for any other purpose;

(v) Are durable enough to withstand the environment they are used in for the maximum time they are expected to be used;

(vi) Are standardized within the site by color, shape or size;

(vii) Identify the specific person who is protected by the lockout or tagout device.

(c) The employer must make sure lockout devices are strong enough so that removing them by other than the normal unlocking method requires:

(i) Excessive force; or

(ii) Unusual techniques such as the use of bolt cutters or other metal cutting tools.

(d) The employer must make sure tagout devices meet these additional requirements:

(i) Make sure all tags:

(A) Meet the format and design criteria of danger/warning tags located in ANSI Z535.5, 2011;

(B) Use the same print and format within a site/facility;

(C) Are constructed and printed so they will not deteriorate and the message on the tag remains legible when:

(I) Exposed to weather;

(II) Used in wet or damp locations;

(III) Used in a corrosive environment such as areas where acid or alkali chemicals are handled or stored.

(D) Have a warning about not energizing or increasing the power to the machine, equipment or component.

(ii) Make sure tagout devices are strong enough to prevent unintentional or accidental removal.

(iii) Make sure the means used to attach the tag to the energy-isolating device meets all of the following:

(A) Is not reusable;

(B) Is self-locking;

(C) Can be attached by hand;

(D) Cannot be released with a force of less than fifty pounds;

(E) Is similar in design and basic characteristics to a one-piece, all-environment-tolerant, nylon cable tie.

(e) The employer must provide appropriate testing/monitoring equipment to assess the potential types and magnitude of energy available at the telecommunication site/facility.

(22) Use of energy control.

(a) The employer must use energy control procedures in this section to protect employees from potentially hazardous energy.

(b) The employer must use a lockout system if it is feasible and the energy source can be locked out.

(i) If a lockout system is used, it must be applied at each source of energy and only by the authorized employee who may be exposed to the hazardous energy;

(ii) If multiple employers/authorized personnel are to work on a telecommunication site/facility, group energy shall afford the same protection as individual lockout.

(c) The employer must use a tagout system only if an energy source cannot be locked out. If it is infeasible to lock out an energy source, you may be permitted to reduce the energy source exposure to within the MPE limits. If it is feasible to lock out a source of energy, you must do so. If the source cannot be locked, you must use tagout.

(d) You must make sure lockout devices hold the energy-isolating device in a "safe" or "off" position.

(e) You must meet these additional requirements when applying a tagout device:

(i) Make sure a tagout device is put on an energy-isolating device so it clearly shows that moving the energy-isolating device from the "safe" or "off" position is prohibited;

(ii) Make sure a tagout device, when used with an energy-isolating device that can be locked out, is fastened to the device at the same point a lock would have been attached;

(iii) Make sure a tagout device that cannot be attached directly to an energy-isolating device is located:

(A) As close as safely possible to the energy-isolating device; and

(B) In a position that is immediately obvious to anyone attempting to operate the energy-isolating device.

(23) Reducing to within the maximum permissible exposure limits (MPE limits) - Authorization steps.

(a) The employer must meet these additional requirements when applying a tagout device for alternative effective means protection to receive authorization to work:

(i) The authorized employee must coordinate with a qualified transmitter engineer/operator to ensure energy control procedures are being followed;

(ii) The authorized employee must have on-their-person testing devices capable of monitoring all potential energy output and alarming if an increase occurs in any component, device or equipment;

(iii) The qualified transmitter engineer/operator must contact all employers responsible for amplifying power within the hazardous vicinity of the affected and authorized employees on the site and ensure the following:

(A) The individual applying the tag gives their name, title and manager's number to the qualified transmitter engineer/operator;

(B) The individual applying the tag notifies the qualified transmitter engineer/operator that they know and understand their responsibilities and requirements of this section;

(C) The individual applying the tag reduces the energy to the specified amount, as determined by the qualified transmitter engineer/operator, and allowed by the PEL;

(D) This energy reduction is verified by the qualified transmitter engineer/operator on-site;

(E) A tagout device is secured on the dial, knob, terminal, switch or device used to increase or decrease power for each transmitter, component and equipment capable of introducing hazardous energy;

(F) The qualified transmitter engineer/operator documents the name, date, and time of contact as well as what energy was controlled at the time;

(G) The qualified transmitter engineer/operator contacts the authorized persons on-site, and ensures that they verify the power is reduced to acceptable levels according to the MPE limits.

(iv) When the authorized employee has completed their job, and outside of the hazardous vicinity, they will inform the qualified transmitter engineer/operator on-site;

(v) The qualified transmitter engineer/operator on-site will verify no employees are within the hazardous vicinity;

(vi) The qualified transmitter engineer/operator will contact all employers capable of amplifying power and have the tagout devices removed. The qualified transmitter engineer/operator will document the person they spoke to, the time, and the date the tagout was "closed";

(vii) The qualified transmitter engineer/operator will return the equipment back to normal power.

(b) The employer must protect employees from the hazards of potential, stored, residual or active hazardous energy by:

(i) Making sure all potentially hazardous stored and residual energy is relieved, discharged, disconnected, restrained, or otherwise rendered safe after the lockout or tagout devices have been put on the energy-isolating devices;

(ii) Continuous verification of the control of machines, equipment, transmitters, receivers or that could reaccumulate stored energy to a hazardous level until:

(A) Service or maintenance is completed; or

(B) The possibility of accumulating hazardous energy does not exist.

(c) The employer must make sure each authorized employee verifies that the machine, equipment, transmitter, receiver or antenna that has been locked, tagged or reduced to within the MPE limits is safe to work around before starting work.

(d) The employer must ensure that before lockout/tagout devices are removed and the energy is restored to machine or equipment, procedures shall be followed and actions taken by the authorized employees to ensure the following:

(i) The work area shall be inspected to ensure that nonessential items have been removed and that machine or equipment components are operationally intact;

(ii) The work area shall be checked and verified to ensure that all employees have been notified, safely positioned or removed;

(iii) The employer of the affected employees must notify the employer of the controlling energy source that it is safe to restore the energy source;

(iv) After (a) through (c) of this subsection have been completed, locks and/or tags can be removed and energy restored to regular power:

(A) If the type of control was elimination or isolation and was locked or tagged out, the lock or tag must be removed by the authorized person who applied it.

(B) If the type of control was reduction to MPE limits or alternative effective means, the tag can be removed by the individual who applied it.

(v) In the case of elimination or isolation the employer may have the lockout or tagout device removed by someone other than the authorized employee who applied it if all of the following conditions are met:

(A) The energy control program has a documented, specific procedure and training for this situation.

(B) You can show that the specific procedures used are as safe as having the device removed by the authorized employee who applied it.

(C) The specific procedures include at least the following:

(I) Verifying the authorized employee who applied the device is not at the site/facility;

(II) Making all reasonable efforts to contact and inform the authorized employee that the lockout or tagout device is being removed;

(III) Making sure the authorized employee is informed, before resuming work at the site/facility, that the lockout or tagout device has been removed.

(e) The employer must meet these requirements if it is necessary to temporarily energize a machine, equipment or component for testing or positioning:

(i) Ensure all authorized or affected personnel are notified and out of hazardous vicinities where exposure to hazardous energy could injure them;

(ii) Follow the energy control program procedures to:

(A) Have all affected and authorized personnel and employees move outside the hazardous vicinity;

(B) Have the authorized individual remove the lockout or tagout device or alternative effective means device;

(C) Contact the employer able to increase or amplify power and have them remove the lockout or tagout device;

(D) Energize or increase power to the machine, equipment or component;

(E) Conduct testing or positioning;

(F) Isolate, eliminate or reduce the power to within the MPE limits;

(G) Reapply the lockout or tagout device when testing or positioning is completed;

(H) Ensure proper protection is afforded through alternative effective means;

(I) Use metering, monitoring or testing devices to determine levels of energy are safe to reenter the area.

(f) The employer must make sure each authorized employee:

(i) Puts a personal lockout or tagout device on the isolation device, group lockout device, lockbox, or comparable mechanism before beginning work;

(ii) Does not remove it until they have finished work on the machine or equipment; and

(iii) Using an energy control alternative effective means, must have a means to contact the employer who has the ability to increase amplification, and how a tagout device will be applied and removed.

(24) Group lockout/tagout and shift changes.

(a)(i) The employer must protect employees during shift or personnel changes by doing the following:

(ii) Use specific procedures for shift or personnel changes to:

(A) Make sure there is continuous lockout or tagout protection during the change; and

(B) Provide for the orderly transfer of lockout or tagout device protection between employees.

(b) The employer must make sure your group energy control procedures provide each member of a crew, craft, department, or other group with the same level of protection as that provided by an individual lockout or tagout device.

(c) The employer must assign a primary authorized employee during group energy control who:

(i) Has overall responsibility for the service or maintenance;

(ii) Attaches their lockout or tagout device to the energy-isolating device when the equipment is deenergized and before any work begins;

(iii) Ensures all employees have been notified and removed from the hazardous vicinity; and

(iv) Is the last person to remove their lockout or tagout device when the job is completed.

(d) The employer must do all of the following if more than one group works on a machine, equipment, transmitter or receiver that has to be locked, tagged or reduced to within the MPE limits:

(i) Assign an authorized person as the group coordinator with overall responsibility to:

(A) Coordinate the different work groups; and

(B) Maintain continuous lockout, tagout or reduction to within the MPE limits protection.

(ii) Assign a primary authorized employee in each group who has:

(A) Responsibility for the group of employees who are protected by a group lockout or tagout device; and

(B) A way to determine which employees of the group are exposed to the machine or equipment that is locked or tagged out.

## **PART B—REQUIREMENTS THAT APPLY TO WIRE-LINE**

**Note:** Wireline - This part is intended to convey to the employer the responsibilities for the training and protection of their employees working with or in telecommunications wireline facilities and field installations.

### NEW SECTION

#### **WAC 296-32-23505 Pole climbing equipment. (1)**

Approved lineman's belts and straps shall be provided. The employer shall ensure their use when work is performed at positions more than four feet above ground, on poles. The belt and strap (work-positioning systems) must be rigged so that an employee can free fall no more than two feet (0.6 meters).

(2) The employer shall ensure that all safety belts and straps are inspected by a competent person prior to each day's use to determine that they are in safe working condition.

(3) Telecommunication lineman's body belts, safety straps and lanyards have to meet the following general requirements:

(a) Shall be drop forged or pressed steel.

(b) Shall have a corrosion resistant finish tested to meet the requirements of the American Society for Testing and Materials B117-64 (50-hour test).

(c) Hardware surfaces shall be smooth and free of sharp edges.

(d) Lineman's body belts shall be at least four inches in width.

(e) Buckles shall be capable of withstanding an 8.9-kilonewton (2,000-pound force) tension test with a maximum permanent deformation no greater than 0.4 millimeters (0.0156 inches).

(f) "D" rings shall be capable of withstanding a 22-kilonewton (5,000-pound force) tensile test without cracking or breaking.

(g) Snaphooks shall be capable of withstanding a 22-kilonewton (5,000-pound force) tension test without failure. The keeper of the locking snaphooks must have a spring tension that will not allow the keeper to begin to open with a weight of two and one-half pounds or less, but the keeper of snaphooks must begin to open with a weight of four pounds, when the weight is supported on the keeper against the end of the nose. The snaphook must be a locking snaphook.

**Note:** Distortion of the snaphook sufficient to release the keeper is considered to be tensile failure of a snaphook.

(h) Top grain leather or leather substitute may be used in the manufacture of body belts and positioning straps; however, leather and leather substitutes may not be used alone as a load-bearing component of the assembly.

(i) Plied fabric used in positioning straps and in load-bearing parts of body belts shall be constructed in such a way that no raw edges are exposed and the plies do not separate.

(j) Positioning straps shall be capable of withstanding the following tests:

(i) A dielectric test of 819.7 volts, AC, per centimeter (25,000 volts per foot) for three minutes without visible deterioration;

(ii) A leakage test of 98.4 volts, AC, per centimeter (3,000 volts per foot) with a leakage current of no more than 1 mA;

**Note:** Positioning straps that pass direct-current tests at equivalent voltages are considered as meeting this requirement.

(iii) Tension tests of 20 kilonewtons (4,500 pounds-force) for sections free of buckle holes and of 15 kilonewtons (3,500 pounds-force) for sections with buckle holes;

(iv) A buckle-tear test with a load of 4.4 kilonewtons (1,000 pounds-force); and

(v) A flammability test in accordance with Table 5.

**Table 5**

Flammability Test Method	Criteria For Passing the Test
Vertically suspend a 500 mm (19.7 inch) length of strapping supporting a 100 kg (220.5 lb.) weight. Use a butane or propane burner with a 76 mm (3 inch) frame. Direct the flame to an edge of the strapping at a distance of 25 mm (1 inch). Remove the flame after five seconds. Wait for any flames on the positioning strap to stop burning.	Any flames on the positioning strap shall self-extinguish. The positioning strap shall continue to support the 100 kg (220.5 lb.) mass.

(4) Before an employee throws their weight on a belt, the employee shall determine that the snap or fasteners are properly engaged.

(5) When working on single-use telecom poles, safety straps shall not be placed above the cross-arm or top attachment except where it is not possible for the strap to slide or be slipped over the top of the pole.

(6) Neither end of the strap shall be allowed to hang loose or dangle while the employee is ascending or descending poles or other structures.

(7) Lineman's belts and safety straps shall not be stored with sharp-edged tools or near sharp objects. When a lineman's belt, safety strap and climbers are kept in the same container, they shall be stored in such a manner as to avoid cutting or puncturing the material of the lineman's belt or safety strap with the gaffs or climbers.

(8) Unless the snap hook is designed for the following connections, snap hooks shall not be engaged as follows:

(a) Connected to loops made in webbing-type lanyards.

(b) Connected to each other.

(c) Attached to a D-ring to which another snap hook or other connector is attached.

(9) Pole climbers.

(a) Climbing gaffs shall be kept properly sharpened and shall be at least one and one-quarter inches in length as measured on the underside of the gaff.

(b) The gaffs of pole climbers shall be covered with safety caps when not being used for their intended use.

(c) The employer shall ensure that pole climbers are inspected by a competent person/qualified climber for the following conditions: Fractured or cracked gaffs or leg irons, loose or dull gaffs, broken straps or buckles. If any of these conditions exist, the defect shall be corrected or replaced before the climbers are used.

(d) Pole climbers shall be inspected as required in this subsection before each day's use and a gaff cut-out test performed at least weekly when in use.

(e) Employees shall not wear climbers while doing work where they are not required. Employees shall not continue to wear their climbers while working on the ground, except for momentary periods of time on the ground.

(f) Pole climbers shall not be worn when:

(i) Working in trees (specifically designed tree climbers shall be used for tree climbing);

(ii) Working on ladders;

(iii) Working in an aerial lift;

(iv) Driving a vehicle;

(v) Walking on roadways, sidewalks, rocky, hard, frozen, brushy or hilly terrain.

(10) When a ladder is supported by an aerial strand, and ladder hooks or other supports are not being used, the ladder shall be extended at least two feet above the strand and shall be secured to it (e.g., lashed or held by a safety strap around the strand and ladder side rail). When a ladder is supported by a pole, it shall be securely lashed to the pole unless the ladder is specifically designed to prevent movement when used in this application. Use a safety belt with a lanyard that is secured to the ladder when doing any work.

## (11) Aerial manlift equipment.

(a) These devices shall not be operated with any conductive part of the equipment closer to exposed energized power lines than the clearances set forth in Table 6 of WAC 296-32-25518.

(b) Only qualified drivers shall be permitted to operate aerial manlift equipment and shall possess an appropriate and current motor vehicle operator's license, specific to the vehicle and load; such as a commercial driver's license (CDL) Class A, B, C, etc.

(c) When performing work from aerial manlift equipment, the employee shall wear a full body harness and a lanyard attached to the manufacturer's approved attachment point.

(d) When it is necessary for the employee to remain in the bucket at an elevated position while traveling from pole to pole:

(i) There shall be direct communication between the employee and the vehicle operator; and

(ii) The operator's manual must be followed for rate of speed.

(e) When any aerial manlift equipment is parked at the job site, the brakes shall be set. Wheel chocks shall be used to prevent uncontrolled movement. If equipped with outriggers, the outriggers shall be implanted on firm footing.

(f) Manufacturer's recommended maximum load limit shall be posted near each set of controls, kept in legible condition and the maximum load limit shall not be exceeded.

(g) Flashing warning lights shall be installed, maintained, and used on all aerial manlift equipment used on public thoroughfares.

(12) Inspection criteria. The employer shall ensure that aerial lifts and associated equipment are inspected by a competent person at intervals set by the manufacturer but in no case less than once per year. Records shall be maintained including the dates of inspections, and necessary repairs made. Additional requirements are located in chapter 296-869 WAC, Elevating work platforms.

## (13) Digger derricks and similar equipment.

(a) This equipment shall not be operated with any conductive part of the equipment closer to exposed energized power lines than the clearances set forth in Table 6 in WAC 296-32-23518.

(b) When digger derricks are used to handle poles near energized power conductors, these operations shall comply with the requirements contained in WAC 296-32-23518(3) of this chapter.

(c) Moving parts of equipment and machinery carried on or mounted on telecommunications line trucks shall be guarded. This may be done with barricades as specified in WAC 296-32-22530 of this chapter.

(d) Digger derricks and their operation shall comply with the following requirements:

(i) Manufacturer's specifications, load ratings and instructions for digger derrick operation shall be strictly observed.

(ii) Rated load capacities and instructions related to digger derrick operation shall be conspicuously posted on a permanent weather-resistant plate or decal in a location on the digger derrick that is plainly visible to the operator.

(iii) Prior to operation the parking brake must be set and the stabilizers extended if the vehicle is so equipped. When the vehicle is situated on a grade, at least two wheels must be chocked on the downgrade side.

(iv) Only trained and qualified persons shall be permitted to operate the digger derrick.

(v) Hand signals to operators shall be those prescribed by ANSI A10.31-2013, Safety Requirements, Definitions and Specifications for Digger Derricks.

(vi) The employer shall ensure that the digger derrick and its associated equipment are inspected by a competent person at intervals set by the manufacturer but in no case less than once per year. Records shall be maintained including the dates of inspections, and necessary repairs made.

(vii) Modifications or additions to the digger derrick and its associated equipment that alter its capacity or affect its safe operation shall be made only with written certification from the manufacturer, or other equivalent entity, such as a nationally recognized testing laboratory, that the modification results in the equipment being safe for its intended use. Such changes shall require the changing and posting of revised capacity and instruction decals or plates. These new ratings or limitations shall be as provided by the manufacturer or other equivalent entity.

(viii) Synthetic rope shall be used in accordance with the manufacturer's specifications and guidelines for the load(s) intended and the equipment being used.

**Note:** Digger derricks are now being supplied with synthetic rope hoist lines and worn out wire rope hoist lines may be replaced with synthetic ropes, depending on the hoist drum's storage capacity, compatibility and manufacturer's guidance.

(ix) The use of rope that shows any signs of aging, chemical contamination or wear must not be used.

**Note:** If you are in doubt of the line's condition, take it out of service and have a competent person inspect it. If it is found to be unserviceable, tag the worn/damaged rope and render it unusable.

(x) When the bulk of a surface strand of the cover has been reduced by 50 percent or more for a distance along the axis of the rope of four or more rope diameters, a two-in-one, double braided rope must be taken out of service or discarded. If the core is visible through the cover in a localized area, discard the damaged area; you may have the eye respliced by a competent/qualified person.

**Note:** If the condition is in more than one area, take the rope out of service and have a competent person inspect it or discard the rope.

(xi) Pulled strands are a potential hazard for snagging on foreign objects. Make every effort to reincorporate a pulled strand back into the rope. If there are four or more consecutive pulled strands that cannot be reincorporated back into the rope, then the rope must be either respliced above the damaged spot or discarded.

(xii) For ropes with a circumference up to (11.43 cm) 4.5 inches, three or more adjacent cut strands are a sign of severe damage and the rope must be taken out of service, discarded or respliced. For ropes with larger circumferences, cut strands can be increased to four.

(xiii) The rope shall not be allowed to build up on one side of the hoist drum, it can slip off and drop the load until the cable tightens up. This creates a shock load on the rope and boom and produces a loss of control of the load.

- Notes:**
- A very sudden change in load up or down in excess of ten percent of the line's rated working load constitutes a hazardous shock load and would void most manufacturers' normal working load recommendations.
  - A typical shock load occurs when an object being lifted vertically by a hoist line gets jerked suddenly or is dropped. Under these conditions, a (2268 kg) 5,000 lb. load may increase to the equivalent of (13,608 kg) 30,000 lb., breaking the hoist line.

(xiv) Any rope suspected of undergoing a shock load must be taken out of service and inspected by a competent person.

(xv) Hoist lines used with derricks shall be rated for the load and usage as specified by the load chart as required by the manufacturer's specifications.

(xvi) Wire rope shall be taken out of service when any of the following conditions exist:

- (A) The rope strength has been significantly reduced due to corrosion, pitting, or excessive heat;
- (B) The thickness of the outer wires of the rope has been reduced to two-thirds or less of the original thickness;
- (C) There are more than six broken wires in any one rope lay, or three in one strand;
- (D) There is excessive permanent distortion caused by kinking, crushing, or severe twisting of the rope; or
- (E) When the wire rope fails to meet the manufacturer's inspection criteria.

(e) Pulling equipment.

(i) Collapsible power reels shall only be used to string or take up wire, small diameter cable, poly rope, or tape for placing or removing aerial cable, taking down wire, or pulling winch line into conduits.

(ii) When used for pulling in poly rope or tape, the reel shall only be used as a pulling capstan and not as a storage device. A maximum of three wraps is allowed.

**Note:** Excessive wraps of poly rope or tape will cause a reel to fail.

(iii) At all times during pulling operations the employee must stay out of the bite of the line.

(iv) All other manufacturer requirements and recommendations must be followed.

#### NEW SECTION

##### **WAC 296-32-23510 Materials handling and storage.**

(1) Poles.

(a) When working with poles in piles or stacks, work shall be performed from the ends of the poles and precautions shall be taken for the safety of employees at the other end of the pole.

(b) During pole hauling operations, all loads shall be secured to prevent displacement. Lights, reflectors and/or flags shall be displayed on the end and sides of the load as required by the department of transportation.

(c) The requirements for installation, removal, or other handling of poles in pole lines are prescribed in WAC 296-32-23516 and 296-32-23518 which pertains to overhead lines.

(d) The operator shall not leave their position at the controls (while a load is suspended), unless the hoisting machinery is equipped with a positive locking system and for the sole purpose of assisting in positioning the load prior to landing it.

(e) Prior to unloading steel, poles, crossarms, and similar material, the load shall be thoroughly examined to ascertain that the load has not shifted, that binders or stakes have not broken, and that the load is not otherwise hazardous to employees.

(2) Cable reels. Cable reels and poles in storage shall be checked or otherwise restrained to prevent uncontrollable movement.

(3) All tools and materials shall be stored in a safe and orderly manner.

(4) Employees shall not carry loose materials, tools, or equipment on or in vehicles in a manner that would constitute a hazard.

(5) All buildings, storage yards, equipment and other property shall be kept in a clean, sanitary and orderly manner.

#### NEW SECTION

##### **WAC 296-32-23512 Cable fault locating and testing.**

(1) Employees involved in cable fault locating and testing shall be instructed in the precautions necessary for their own safety and the safety of other employees.

(2) Before voltage is applied to equipment not isolated, all possible precautions shall be taken to ensure that no employee can make contact with the energized conductors under test.

(3) Only trained and authorized personnel shall repair and test medium and high voltage equipment.

#### NEW SECTION

##### **WAC 296-32-23514 Grounding for employee protection—Pole lines.**

(1) Power conductors. Electric power conductors and equipment shall be considered energized until the utility or utility representative has verified to the telecommunications employer/employee(s) on-site that the line(s) have been deenergized and grounded as listed in subsection (4) of this section. Guidance on grounding for the protection of employees is found in WAC 296-45-345 and must be followed and verified complete before a line can be considered deenergized.

(2) Nonworking open wire. Nonworking open wire communications lines shall be bonded to one of the grounds listed in subsection (4) of this section.

(3) Vertical power conduit, power ground wires and street light fixtures.

(a) Metal power conduit on joint use poles, exposed vertical power ground wires, and street light fixtures which are below communications attachments or less than twenty inches above these attachments, shall be considered energized and shall be tested for voltage unless the employee can visually determine that they are bonded to the communications suspension strand or cable sheath.

(b) If no hazardous voltage is shown by the voltage test, a temporary bond shall be placed between such street light fixture, exposed vertical power grounding conductor, or

metallic power conduit and the communications cable strand. Temporary bonds used for this purpose shall have sufficient conductivity to carry at least five hundred amperes for a period of one second without fusing.

(4) Protective grounding. Acceptable grounds for protective grounding are as follows:

(a) A vertical ground wire which has been tested, approved for use and found safe, provides for 20 kV voltage protection, and is connected to a power system multi-grounded neutral or the grounded neutral of a power secondary system where there are at least three services connected; a 20 kV voltage detector is required for the test.

(b) Communications cable sheath or shield and its supporting strand where the sheath or shield is:

(i) Bonded to an underground or buried cable which is connected to a central office ground; or

(ii) Bonded to an underground metallic piping system; or

(iii) Bonded to a power system multi-grounded neutral or grounded neutral of a power secondary system which has at least three services connected.

(c) Guys which are bonded to the grounds specified in (a) and (b) of this subsection and which have continuity uninterrupted by an insulator; and

(d) If all of the preceding grounds are not available, arrays of driven ground rods where the resultant resistance to ground will be low enough to eliminate danger to personnel or permit prompt operation of protective devices.

(5) Attaching and removing temporary bonds. When attaching grounds (bonds), the first attachment shall be made to the protective ground. When removing bonds, the connection to the line or equipment shall be removed first. Insulating gloves, suitable for voltage levels that may be encountered, must be worn during these operations.

(6) Temporary grounding of suspension strand.

(a) The suspension strand shall be grounded to the existing grounds listed in subsection (4) of this section when being placed on jointly used poles.

(b) Where power crossings are encountered on nonjoint lines, the strand shall be bonded to an existing ground listed in subsection (4) of this section as close as possible to the crossing. This bonding is not required where crossings are made on a common crossing pole unless there is an upward change in grade at the pole.

(c) Where traveling roller-type bonds are used, they shall be restrained so as to avoid stressing the electrical connections.

(d) Bonds between the suspension strand and the existing ground shall be at least No. 6AWG copper.

(e) Temporary bonds shall be left in place until the strand has been tensioned, dead-ended, and permanently grounded.

(f) Covered strand (insulated) shall be grounded at the reel during stringing operations.

#### NEW SECTION

**WAC 296-32-23516 Overhead lines.** (1) Handling suspension strand.

(a) When pulling strand off a reel trailer more than two spans there must be a reel tender.

(b) There must be reliable communications between the employee pulling strand and the reel tender.

(c) The employer shall ensure that when handling cable suspension strand which is being installed on poles carrying exposed energized power conductors, that all employees that may be exposed, to include the reel tender, shall wear insulating gloves, suitable for voltage levels that may be encountered, and shall avoid body contact with the strand until after it has been tensioned, dead-ended and permanently grounded.

(d) The strand shall be restrained against upward movement during installation:

(i) On joint-use poles, where there is an upward change in grade at the pole; and

(ii) On nonjoint-use poles, where the line crosses under energized power conductors.

(2) Test requirements for cable suspension strand.

(a) Before attaching a splicing platform to a cable suspension strand, the strand shall be tested and determined to have strength sufficient to support the weight of the platform and the employee. Where the strand crosses above power wires or railroad tracks it may not be tested but shall be inspected in accordance with subsection (3) of this section.

(b) The following method or an equivalent method shall be used for testing the strength of the strand: A rope, at least three-eighths inches in diameter, shall be thrown over the strand. On joint lines, the rope shall be passed over the strand using tree pruner handles or a wire raising tool. If two employees are present, both shall grip the double rope and slowly transfer their entire weight to the rope and attempt to raise themselves off the ground. If only one employee is present, one end of the rope which has been passed over the strand shall be tied to the bumper of the truck, or other equally secure anchorage. The employee then shall grasp the other end of the rope and attempt to raise himself off the ground.

(3) Inspection of strand. Where strand passes over electric power wires or railroad tracks, it shall be inspected from an elevated working position at each pole supporting the span in question. The strand may not be used to support any splicing platform, scaffold or cable car, if any of the following conditions exist:

(a) Corrosion so that no galvanizing can be detected;

(b) One or more wires of the strand are broken;

(c) Worn spots; or

(d) Burn marks such as those caused by contact with electric power wires.

#### NEW SECTION

**WAC 296-32-23518 Wood or other types of poles.** (1) Need for testing wood poles. Unless temporary guys or braces are attached, the following poles shall be tested in accordance with subsection (2) of this section and determined to be safe before employees are permitted to climb them:

**Note:** When work is to be performed on a wood pole, it is important to determine the condition of the pole before it is climbed. The weight of the employee, the weight of equipment being installed, and other working stresses (such as the removal or retensioning of conductors) can lead to the failure of a defective pole or one that is not designed to handle the additional stresses. For these reasons, it is essential that an inspection and test of the condition of a wood pole be performed before it is climbed.

(a) Dead-end poles, except properly braced or guyed "Y" or "T" cable junction poles;

(b) Straight line poles which are not storm guyed and where adjacent span lengths exceed one hundred sixty-five feet;

(c) Poles at which there is a downward change in grade and which are not guyed or braced corner poles or cable junction poles;

(d) Poles which support only telephone drop wire; and

(e) Poles which carry less than ten communications line wires. On joint use poles, one power line wire shall be considered as two communication wires.

(2) Testing of wood poles.

(a) The employer shall develop test methods that can be used in ascertaining whether a wood pole is capable of sustaining the forces that would be imposed by an employee climbing the pole.

(b) The employer shall ascertain that the pole can sustain all other forces that will be imposed by the work to be performed.

(c) The following method or an equivalent method shall be used for testing wood poles:

(i) Rap the pole sharply with a lineman's hammer, starting near the ground line and continuing upwards circumferentially around the pole to a height of approximately 6 feet. The hammer will produce a clear sound and rebound sharply when striking sound wood. Decay pockets will be indicated by a dull sound and/or a less pronounced hammer rebound. When decay pockets are indicated, the pole shall be considered unsafe.

(ii) The pole shall be prodded below or as near the ground line as possible using a pole prod or a screwdriver with a single blade at least five inches long, driving it in at a forty-five degree angle towards the center of the pole.

(iii) Apply a horizontal force to the pole and attempt to rock it back and forth in a direction perpendicular to the line. Caution must be exercised to avoid causing power lines to swing together. The force may be applied either by pushing with a pike pole or pulling with a rope. If the pole cracks during the test, it shall be considered unsafe.

(d) The pole should be inspected for cracks. Horizontal cracks perpendicular to the grain of the wood may weaken the pole. Vertical ones, although not considered to be a sign of a defective pole, can pose a hazard to the climber, and the employee must keep his or her gaffs away from them while climbing.

(e) The presence of any of these conditions is an indication that the pole may not be safe to climb or to work from. The employee performing the inspection must be qualified to make a determination as to whether or not it is safe to perform the work without taking additional precautions.

(f) Unsafe poles or structures.

(i) Poles or structures determined by a qualified employee to be unsafe by test or observation may not be climbed until made safe by guying, bracing or other means.

(ii) Poles determined to be unsafe to climb shall, until they are made safe, be marked in a conspicuous place to alert and warn all employees of the unsafe condition and the owner of the pole must be notified of its condition.

(3) Handling poles near energized power conductors.

(a) Qualified employees permitted to set, remove or handle poles which could inadvertently encroach the minimum approach distance must be trained in:

(i) The proper use of the special precautionary techniques;

(ii) Personal protective equipment;

(iii) Insulating and shielding materials;

(iv) Insulated tools for working near exposed energized parts or overhead electrical lines and equipment;

(v) Skills and techniques necessary to determine the nominal voltage of exposed live lines and parts; and

(vi) The minimum approach distances in Table 6 of this section.

(b) A designated employee other than the equipment operator shall observe the approach distance to exposed lines and equipment and give timely warnings before the minimum approach distance required by Table 6 of this section is reached, unless the employer can demonstrate that the operator can accurately determine that the minimum approach distance is being maintained.

(c) Where a hazard of a power contact exists, due to use of long handled tools, proper rubber equipment shall be used.

(d) Joint use poles may not be set, moved, or removed where the nominal voltage of open electrical power conductors exceeds 34.5 kV phase to phase or 20 kV phase to ground.

(e) Poles that are to be placed, moved or removed during heavy rains, sleet or wet snow in joint lines carrying more than 8.7 kV phase to phase voltage or 5 kV phase to ground shall be guarded or otherwise prevented from any contact with overhead energized power conductors.

(f)(i) In joint lines where the power voltage is greater than 600 volts but less than 34.5 kV phase to phase or 20 kV phase to ground, wet poles being placed, moved or removed shall be insulated with either a rubber insulating blanket, a fiberglass box guide, or equivalent protective equipment.

(ii) In joint lines where the power voltage is greater than 8.7 kV phase to phase or 5 kV phase to ground but less than 34.5 kV phase to phase or 20 kV phase to ground, dry poles being placed, moved, or removed shall be insulated with either a rubber insulating blanket, a fiberglass box guide, or equivalent protective equipment.

(iii) Where wet or dry poles are being removed, insulation of the pole is not required if the pole is cut off two feet or more below the lowest power wire and also cut off near the ground line.

(g) Insulating gloves shall be worn when handling the pole with either hands or tools, when there exists a possibility that the pole may contact a power conductor. Where the voltage to ground of the power conductor exceeds 15 kV to ground, Class II gloves (as defined in ASTM D 120-09a)



shall be used. For voltages not exceeding 15 kV to ground, insulating gloves shall have a breakdown voltage of at least 17 kV.

(h) The guard or insulating material used to protect the pole shall meet the appropriate three-minute proof test voltage requirements contained in:

- ASTM D 178-01, 2010, Standard Specification for Rubber Insulating Matting;
- ASTM D 1048-12, Standard Specification for Rubber Insulating Blankets;
- ASTM D 1049-98, 2010, Standard Specification for Rubber Insulating Covers; and
- ASTM F 712-06, 2011, Standard Test Methods and Specifications for Electrically Insulating Plastic Guard Equipment.

(i) Reserved.

(j) If, during operation of the mechanical equipment, the equipment could become energized, the operation shall also comply with at least one of the following:

(i) The energized lines shall be covered with insulating protective material that will withstand the type of contact that might be made during the operation.

(ii) The equipment shall be insulated for the voltage involved. The equipment shall be positioned so that its uninsulated portions cannot approach the lines or equipment any closer than the minimum approach distances specified in Table 6 of this section.

(iii) Each employee shall be protected from hazards that might arise from equipment contact with the energized lines. The measures used shall ensure that employees will not be exposed to hazardous differences in potential.

(k) When there is a possibility of contact between the pole or the vehicle-mounted equipment used to handle the pole, and an energized power conductor, the following precautions must be observed:

(i) Employ insulating protective equipment or barricades to guard against any hazardous potential differences.

(ii) When on the vehicle which carries the derrick, avoid all contact with the ground, with persons standing on the ground, and with all grounded objects such as guys, tree limbs, or metal sign posts. To the extent feasible, remain on the vehicle as long as the possibility of contact exists.

(iii) When it is necessary to leave the vehicle, step onto an insulating blanket and break all contact with the vehicle before stepping off the blanket and onto the ground. As a last resort, if a blanket is not available, the employee may jump cleanly from the vehicle then take short steps or shuffle away from the vehicle.

(iv) When it is necessary to enter the vehicle, first step onto an insulating blanket and break all contact with the ground, grounded objects and other persons before touching the truck or derrick.

(4) Working position on poles or structures. Climbing and working is prohibited above the level of the lowest electric power conductor on the pole or structure (exclusive of vertical runs and street light wiring), except:

(a) Where communications facilities are attached above the electric power conductors, and a rigid fixed barrier is installed between the electric power facility and the communications facility; or

(b) Where the electric power conductors are cabled secondary service drops carrying less than 300 volts to ground and are attached forty inches or more below the communications conductors or cables.

(5) Neither the employer nor the employees shall throw or permit anything to be thrown from elevated position(s) or poles to the ground or lower level, nor shall anything be thrown from the ground or lower level to an elevated position, whether that elevated position is on a pole, tower, aerial manlift or otherwise. Tools and loose materials shall not be left on poles, towers, ladders or other elevated structures or positions.

(6) Other elevated locations. Approved harnesses and lanyards or lineman's belts and straps shall be worn when working at elevated positions on poles or similar structures, which do not have guarded work areas.

(7) Installing and removing wire and cable. Before installing or removing wire or cable, the pole or structure shall be guyed, braced, or otherwise supported, as necessary, to prevent failure of the pole or structure.

(8) Avoiding contact with energized power conductors or equipment. When cranes, digger derricks, or other mechanized equipment are used for setting, moving, or removing poles, all necessary precautions shall be taken to avoid contact with energized power conductors or equipment by maintaining the minimum approach distance applicable to the voltage located in Table 6 of this section.

(9) Support structures.

(a) No employee, or any material or equipment, shall be supported or permitted to be supported on any portion of a pole structure, platform, ladder, walkway or other elevated structure or aerial device unless the employer ensures that the support structure is first inspected by a competent person and it is determined to be strong, in good working condition and properly secured in place.

(b) Employees shall not throw anything from pole to ground, from pole to pole or from ground to pole.

(10) Power exposures.

(a) The employer shall ensure that no employee approaches or takes any conductive object closer to any electrically energized overhead power lines and parts than prescribed in Table 6 of this section unless:

(i) The energized parts are insulated or guarded from the employee and any other conductive object at a different potential; or

(ii) The power conductors and equipment are deenergized and grounded.

(b) While handling communication wires, metal sheaths, or communication equipment, contact shall be avoided with street lamp brackets, trolley span wires, power guys, and any other power equipment that may be energized. The safest possible working position shall be assumed before starting work.

(c) Communication employees shall never work in the pole space on jointly used poles between normal primary and secondary attachments.

**Table 6**  
**Minimum Approach Distances to Exposed Energized Overhead Powerlines and Parts**

Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee Phase-to-Phase or Phase-to-Ground (ft-in)
0 to 0.050	Not Specified
0.051 to 0.300	Avoid Contact
0.301 to 0.750	1-6
0.751 to 15	3-0
15.1 to 36.0	3-6
36.1 to 46.0	4-0
46.1 to 72.5	4-6

Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee from Energized Part Without Tools Phase-to-Phase or Phase-to-Ground (ft-in)
72.6 to 121	5-6
121.1 to 145	6-6
145.1 to 169	7-0
169.1 to 242	10-6
242.1 to 362.0	15-6
362.1 to 420.0	18-4
420.1 to 550.0	22-0
550.1 to 800.0	27-9

**NEW SECTION**

**WAC 296-32-23520 Telecommunications line tree trimming and emergency work.** (1) General.

(a) Employees engaged in pruning, trimming, removing, or clearing trees from lines shall be required to consider all overhead and underground electrical power conductors to be energized with potentially fatal voltages, never to be touched (contacted) either directly or indirectly and comply with Table 7 of this section for minimum approach distances.

(b) Line clearance tree trimming operations exposing employees to electrical hazards shall be addressed by qualified line clearance tree trimmers covered under chapter 296-45 WAC.

(c) Employees engaged in line-clearing operations shall be instructed that:

(i) A direct contact is made when any part of the body touches or contacts an energized conductor, or other energized electrical fixture or apparatus.

(ii) An indirect contact is made when any part of the body touches any object in contact with an energized electrical conductor, or other energized fixture or apparatus.

(iii) An indirect contact can be made through conductive tools, tree branches, truck equipment, or other objects, or as a

result of communications wires, cables, fences, or guy wires being accidentally energized.

(iv) Electric shock will occur when an employee, by either direct or indirect contact with an energized conductor, energized tree limb, tool, equipment, or other object, provides a path for the flow of electricity to a grounded object or to the ground itself. Simultaneous contact with two energized conductors will also cause electric shock which may result in serious or fatal injury.

(d) Before any work is performed in proximity to energized conductors, the system operator/owner of the energized conductors shall be contacted to ascertain if they know of any hazards associated with the conductors which may not be readily apparent. This rule does not apply when operations are performed by the system operator/owner.

(2) Working in proximity to potential electrical hazards.

(a) Employers shall ensure that a close inspection is made by the employee and by the crewleader or supervisor in charge before climbing, entering, or working around any tree, to determine whether an electrical power conductor passes through the tree, or passes within reaching distance of an employee working in the tree. If any of these conditions exist either directly or indirectly, an electrical hazard shall be considered to exist unless the system operator/owner has caused the hazard to be removed by deenergizing the lines, or installing protective equipment.

(b) Qualified line clearance tree trimmers or trainees shall comply with Table 7 below:

**Table 7**  
**Minimum Working Distances from Energized Conductors for Line-Clearance Tree Trimmers and Line-Clearance Tree-Trimner Trainees**

Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee Phase-to-Phase or Phase-to-Ground (ft-in)
0 to 0.050	Not Specified
0.051 to 0.300	Avoid Contact
0.301 to 0.750	1-6
0.751 to 15	3-0
15.1 to 36.0	3-6
36.1 to 46.0	4-0
46.1 to 72.5	4-6

Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee from Energized Part Without Tools Phase-to-Phase or Phase-to-Ground (ft-in)
72.6 to 121	5-6
121.1 to 145	6-6
145.1 to 169	7-0
169.1 to 242	10-6

Voltage in Kilovolts Phase-to-Phase or Phase-to-Ground	Distance to Employee from Energized Part Without Tools Phase-to-Phase or Phase-to-Ground (ft-in)
242.1 to 362	15-6
362.1 to 420.0	18-4
420.1 to 550.0	22-0
550.1 to 800.0	27-9

(c) Rubber footwear, including lineman's overshoes, shall not be considered as providing any measure of safety from electrical hazards.

(d) Ladders, platforms, and aerial devices, including insulated aerial devices, may not be brought in contact with an electrical conductor. Reliance shall not be placed on their dielectric capabilities.

(e) When an aerial lift device contacts an electrical conductor, the truck supporting the aerial lift device shall be considered as energized.

NEW SECTION

**WAC 296-32-23522 Line patrol and work on aerial plants.** A minimum of two persons, one of whom shall be a qualified person, shall be used for line patrol duty at night when observing the overhead line and driving the vehicle must be done simultaneously. If repair to lines or equipment is found to be of such nature as to require two qualified employees, work shall not proceed until additional help has been obtained provided that in cases of emergency where delay would increase the danger to life, limb, or substantial property, one employee may clear the hazard without assistance. Whenever natural light is insufficient to illuminate the worksite, artificial illumination shall be provided to enable the employee to perform the work safely.

NEW SECTION

**WAC 296-32-23523 Storm work and emergency conditions.** (1) Since storm work and emergency conditions create special hazards, only authorized representatives of the electric utility system operator/owner or a qualified tree trimmer per chapter 296-45 WAC and not telecommunication employees may perform tree work in these situations where energized electrical power conductors are involved.

(2) When an emergency condition develops due to tree operations, work shall be suspended and the electric utility system operator/owner shall be notified immediately.

(3) Telecommunication employers shall not allow their employees to perform any storm damage work until given the all clear that it is safe to enter an area by the electrical utility system operator/owner.

(4) During storm damage recovery operations and after the utility has given the all clear, all employees working on communications suspension strand and conductive cables shall use insulated gloves and an approved voltage detector (20 kV) to test for voltage.

NEW SECTION

**WAC 296-32-23524 Underground lines and cable vaults.** Underground/buried communication lines.

(1) No employer shall permit an employee to work in such proximity to any part of an electric power circuit that the employee could contact the electric power circuit in the course of work, unless the employee is protected against electric shock by deenergizing the circuit and grounding it or by guarding it effectively by insulation or other means.

(2) No person, firm, corporation, or agent of same, shall require or permit any employee to perform any function in proximity to electrical conductors or to engage in any excavation, construction, demolition, repair, or other operation, unless and until danger from accidental contact with said electrical conductors has been effectively guarded by deenergizing the circuit and grounding it or by guarding it by effective insulation or other effective means.

(3) In work areas where the exact location of underground electric powerlines is unknown, no activity which may bring employees into contact with those powerlines shall begin until the powerlines have been positively and unmistakably deenergized and grounded.

(4) Before work is begun the employer must ascertain by inquiry or direct observation, or by instruments, whether any part of an energized electric power circuit, exposed or concealed, is so located that the performance of the work may bring any person, tool, or machine into physical or electrical contact with the electric power circuit. The employer shall post and maintain proper warning signs where such a circuit exists. The employer shall advise employees of the location of such lines, the hazards involved, and the protective measures to be taken.

NEW SECTION

**WAC 296-32-23526 Directional boring machines.** (1) Surface encumbrances. All surface encumbrances that are located so as to create a hazard to employees shall be removed or supported, as necessary, to safeguard employees.

(2) Underground installations.

(a) The location of utility installations, such as sewer, telephone, fuel, electric, water lines, or any other underground installations that reasonably may be expected to be encountered during excavation work, shall be located prior to opening an excavation.

(b) Utility companies or owners shall be contacted within established or customary local response times, advised of the proposed work, and asked to locate the underground utility installation prior to the start of actual excavation.

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**From a Land Line: 1-800-424-5555**

(3) A walk around safety inspection must be conducted to evaluate and address all potential hazards.

(4) Appropriate PPE requirements must be determined prior to commencing work.

(5) Verify utility locations.

(a) When excavation/directional boring operations approach the location of underground installations, the exact location of the installations shall be determined by safe and acceptable means.

(b) While the excavation is open, underground installations shall be protected, supported, or removed as necessary to safeguard employees.

(6) Operator training. Operators of drilling, tracking and support equipment must be trained and the employer shall certify that each employee has received the training needed.

**Note:** Employment records that indicate that an employee has received the needed training are an acceptable means of meeting this requirement. Additional training requirements are located in WAC 296-32-22525.

(7) Field operations.

(a) The drill must not be operated without direct, two-way communication between the drill operator and drill locator and/or exit side personnel.

(b) Mechanical breakout wrenches must be used.

(c) Pipe wrenches must not be used as mechanical breakout wrenches.

(8) Electrical hazards.

(a) You must follow manufacturer's recommendations when operating this machinery. Electrical sensing stakes must be driven into the ground and the strike alert system tested prior to operation. The stake must be located a minimum of six feet from the machine.

(b) Any time you drill where electrical hazards may be present you must use the appropriate PPE, including the rubber insulation equipment listed below. (For more information, see WAC 296-32-22550 Rubber insulation equipment.)

(i) Rubber insulating gloves, including protectors for gloves.

(ii) Rubber insulating blankets.

(iii) Rubber insulating boots.

(iv) Other rubber insulating equipment, when applicable.

(c) The employer must make sure that no one touches the drilling machine when in use.

(9) Lock out/tag out. You must use energy control procedures to protect employees servicing, maintaining or performing procedures on machines and equipment that may have potentially hazardous energy.

**Note:** Additional requirements relating to lock out/tag out are located in chapter 296-803 WAC.

(10) Emergency response. If an existing utility is struck during the boring operation, employees must be trained in emergency procedures to reduce the likelihood of injury.

Types of strikes include:

- Electrical;
- Gas;
- Fiber optic;
- Communication lines;
- Sanitary/storm sewer and water.

(11) The employer must make sure that barricades are used for the protection of employees and the public when the drilling machine is in use.

#### NEW SECTION

#### **WAC 296-32-23528 Manholes, street openings and vaults.** (1) Guarding manholes and street openings.

(a) When covers of manholes or vaults are removed, the opening shall be promptly guarded by a railing, temporary cover, or other acceptable temporary barrier to prevent an accidental fall through the opening and to protect employees working in the manhole from foreign objects entering the manhole.

(b) When work is to be performed on underground plant, the immediate foreman in charge and/or the craftsman assigned to do the work shall make a complete evaluation of the work location in regard to the hazards that are created or that could exist prior to beginning the work in underground plant.

(c) The immediate foreman and/or the craftsman responsible for the job completion shall be in agreement of the proper method of eliminating or reducing any hazards that are present or could be caused by the location of the worksite, before the job proceeds.

(2) Requirements prior to entry of manholes and unvented vaults.

(a) The internal atmosphere shall be tested for oxygen deficiency and combustible gas.

(b) Mechanical forced air ventilation shall be in operation at all times when employees are required to be in the manhole.

(c) The mechanical forced air equipment provided shall be of a quantity to replace the exhausted air and shall be tempered when necessary.

(d) Ventilation equipment shall be designed in such a manner that employees will not be subjected to excessive air velocities.

**Note:** For additional requirements relating to confined spaces see chapter 296-809 WAC.

#### NEW SECTION

#### **WAC 296-32-23530 Joint power and telecommunication manholes and vaults.** (1) While work is being performed in manholes or vaults occupied jointly by an electric utility and a telecommunication utility;

(a) The employer must demonstrate that the employee will be protected from all electrical hazards;

(b) An employee with basic first-aid training shall be available in the immediate vicinity to render emergency assistance as required;

(c) An employee is not to be precluded from occasionally entering a manhole to provide assistance other than in an emergency.

(2) In manholes or vaults where energized cables or equipment are in service, an employee working alone may only enter, for brief periods of time, for the purpose of inspection, housekeeping, taking readings, or similar work.

**Note:** Entry procedures meeting the criteria of WAC 296-809-60002 are deemed acceptable. All other entry requirements fall under the permit entry procedures as defined in chapter 296-809 WAC.

NEW SECTION

**WAC 296-32-23532 Ladders for underground access.** (1) Ladders shall be used to enter and exit manholes exceeding four feet in depth.

(2) Metal manhole ladders shall be free of structural defects and free of accident hazards such as sharp edges and burrs. The metal shall be protected against corrosion unless inherently corrosion-resistant. These ladders may be designed with parallel side rails, or with side rails varying uniformly in separation along the length (tapered) or with side rails flaring at the base to increase stability.

(3) The spacing of rungs or steps shall be on twelve-inch centers.

(4) Connections between rungs or steps and side rails shall be constructed to ensure rigidity as well as strength.

(5) Rungs and steps shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize the possibility of slipping.

(6) Ladder hardware shall meet the ladder's component parts and shall be of a material that is protected against corrosion unless inherently corrosion-resistant. Metals shall be so selected as to avoid excessive galvanic action.

NEW SECTION

**WAC 296-32-23534 Tent heater, torches and open flames.** When open flames must be used in manholes, the following precautions shall be taken to protect against the accumulation of combustible gas:

(1) A test for combustible gas shall be made immediately before using any open flame device.

(2) A fuel tank (e.g., acetylene) may not be in the manhole unless in actual use.

(3) Open flames shall not be used within ground tents or on platforms within aerial tents unless:

(a) The tent covers are constructed of fire resistant materials; and

(b) Ventilation is provided to maintain safe oxygen levels and avoid harmful buildup of combustion products and combustible gases.

NEW SECTION

**WAC 296-32-23536 Lead work.** (1) Employer program requirements.

(a) General activities exposing employees to lead hazards the employer must follow the requirements located in WAC 296-62-07521.

(b) Construction activities exposing employees to lead hazards must follow the requirements located in WAC 296-155-176.

(2) When operated from commercial power the metal housing of electric solder pots shall be grounded. Electric solder pots may be used with the power equipment described in WAC 296-32-22540 (6) and (7), without a grounding conductor.

(3) Wiping gloves or cloths and eye protection must be used in lead wiping operations.

(4) A drip pan to catch hot lead drippings must be provided and used.

**PART C—REQUIREMENTS THAT APPLY TO WIRELESS**

**Note:** Wireless - This part is intended to convey to the employer the responsibilities for the training and protection of their employees working with or upon telecommunications wireless facilities and field installations.

NEW SECTION

**WAC 296-32-24005 Wireless communications—General requirements.** (1) In addition to the requirements of WAC 296-32-22515 the employer shall ensure that at least two employees on-site are trained and hold current certifications in basic first aid and cardiopulmonary resuscitation (CPR) issued by the American Red Cross or any other organization whose standards are equivalent to the American Red Cross. Employees working alone must have basic first-aid training and hold a valid first-aid certificate.

(2) Training.

(a) In order for employees to work at heights above four feet, they must be authorized and approved for such work by the employer and/or a competent person.

(b) Training of employees shall be performed by a qualified person able to perform such training.

(c) The employer's written work procedures shall be provided to employees as part of their training.

(d) Pictures and symbols may be used as a means of instruction if employee understanding is improved using this method.

(e) The employer shall ensure that each employee working at heights above four feet has been trained in all of the following areas:

(i) The nature of fall hazards in the work area;

(ii) The correct procedures for erecting, maintaining, disassembling, and inspecting the fall protection systems to be used;

(iii) The correct procedures for inspecting fall protection equipment for wear, damage, defect, or deterioration;

(iv) Climbing methods and safety procedures;

(v) The use and operation of the fall protection systems used by the employer, as described in WAC 296-32-22555;

(vi) Identify the duties and responsibilities of various roles, as documented in the fall protection work plans;

(vii) The compatibility of fall protection equipment and fall protection systems.

**Note:** For establishing and maintaining a program for the control and monitoring of nonionizing radiation hazards (RFR), see WAC 296-32-22572 for additional requirements.

(3) Telecommunications work on high voltage transmission towers and power/utility poles.

(a) Only high voltage lineman or telecommunications/tower employees with equivalent training for working on transmission towers/utility/power poles as required in WAC 296-45-065 are allowed to work on such structures.

(b) Employees must have the skills and techniques necessary to distinguish exposed live parts from other parts of electric equipment.

(c) Employees must have the skills and techniques to determine the nominal voltage of exposed live parts.

(d) Employees must know the minimum approach distances to the voltages to which the employees will be exposed to and measures must be taken to ensure employees and conductive objects will not enter the minimum approach distance. See Table 6 in WAC 296-32-23518.

(e) Employees must be trained and address inductance hazards.

(4) Training program documentation and records to include in-house.

(a) The employer shall document that each employee has been trained with a record that includes all of the following:

(i) The identity of the person trained;

(ii) The signature of the employer or the qualified person who conducted the training;

(iii) The date that training was completed;

(iv) A detailed description of the training.

(b) The employer shall maintain a copy of the training lesson plan for each topic of instruction.

(c) The employer shall prepare the record at the completion of the training required by these rules and shall be maintained for five years.

(d) The most current record shall be kept available for review by the director of the department of labor and industries or his or her designee, upon request.

(e) The employer may only accept training records for previous training by an accredited institute or school if:

(i) The employer verifies that all training and knowledge is up-to-date and applicable to the new employee's job duties; and

(ii) The employee must also demonstrate proficiency in the duties they are required to perform.

(f) In order to fulfill responsibilities under the provisions of the rules in this section, the employer shall, upon request, provide the department of labor and industries or his or her designee access to the following records:

(i) Training records. All material related to the employer's training and education program, see WAC 296-32-22525;

(ii) Medical records and nonionizing radiation exposure records. All medical records and material related to each analysis using exposure or medical records must comply with chapter 296-802 WAC;

(iii) Equipment inspections and testing records. All material related to the modification, repair, test, calibration or maintenance service of all equipment.

(5) A site specific safety plan shall be located on-site and include the following:

(a) The site address to include the coordinates and directions to the site, and local emergency response agency contact information.

(b) The hazard assessment as required in subsections (6) through (8) of this section.

(c) The fall protection work plan as required in WAC 296-32-24012(11).

(d) Emergency procedures including rescue procedures as required in WAC 296-32-24018.

(6) The employer shall ensure that a structure hazard assessment is performed to identify, assess, and control employee exposure to hazards as required by these rules and any other applicable state or federal statutes, rules, or regula-

tions. Hazard assessments required by this rule shall be documented as follows:

(a) Initially and daily for each site by a competent person prior to permitting employees to climb the structure.

(b) When safety and health information or change in workplace conditions indicates that a new or increased hazard may be present.

(7) The hazard assessments required by this rule shall do the following:

(a) Be performed by a competent person.

(b) Evaluate and approve new equipment, materials, and processes for hazards before they are introduced into the workplace.

(c) The contract employer must verify the structural analysis for construction, demolition, and modification of communication structures, antenna supporting structures, mounts, structural components, guy assemblies, insulators and foundations, when required. Refer to ANSI/TIA 222-G, 2014 and Telecommunication construction standards, ANSI/TIA - 322, 2016 and ANSI/ASSE A10.48, 2016.

(d) Identify meteorological conditions that could affect work at heights above four feet on a tower, such as high winds, heat, cold, lightning, rain, snow, or sleet.

(e) Working on towers shall be prohibited during adverse weather conditions.

**Note:** Thunderstorms in the immediate vicinity, high winds, heat, cold, lightning, rain, snow, or sleet are examples of adverse weather conditions that are presumed to make this work too hazardous to perform, except under emergency conditions.

(8) If hazards are identified, the employer shall assess the severity of identified hazards and implement means to control such hazards, including providing employees with personal protective equipment (PPE) designed to control the identified hazards and ensuring the proper training and use of the PPE by the employees.

(9) Climbing facilities.

(a) If climbing pegs are missing and/or the safety climb's condition is outside the manufacturer's specifications, the climbing facility shall be deemed unsafe and not climbed.

(b) Climbing space must be kept clear of obstructions or if the climbing space and facility are obstructed, approved climber attachments must be installed to maintain 100 percent fall protection.

(c) These rules shall not require the retrofitting of communication climbing facilities provided that employees who are exposed to fall hazards above four feet while performing work on communication towers are protected from such hazards by means of a 100 percent fall protection system.

(d) If access to the tower is obstructed, the employer shall notify the owner of the antenna/communication system and the tower owner and an alternate means must be utilized to access the tower.

(10) Communication tower/structure evaluation.

(a) The structural integrity, safety systems and loading capacities of the structure must be maintained per the engineered design.

(b) Maintenance and condition assessment must be conducted in accordance with ANSI/TIA 222-G, 2014:

(i) Three-year intervals for guyed towers, and five-year intervals for self-supporting structures and monopoles or in

accordance with the schedule established by the engineer of record for the structure owner.

(ii) After severe wind and/or ice storms or other extreme conditions.

(iii) At shorter intervals when the structure has been exposed to corrosive environments or are in areas subject to vandalism.

#### NEW SECTION

**WAC 296-32-24010 Antenna work-radio transmitting stations 3-30 MHZ.** (1) Prior to grounding a radio transmitting station antenna, the employer shall ensure that the rigger in charge:

(a) Prepares a danger tag signed with their signature;

(b) Requests the transmitting technician to shutdown the transmitter and to ground the antenna with its grounding switch;

(c) Is notified by the transmitting technician that the transmitter has been shutdown; and

(d) Tags the antenna ground switch personally in the presence of the transmitting technician after the antenna has been grounded by the transmitting technician.

(2) Power shall not be applied to the antenna, nor shall the grounding switch be opened under any circumstances while the tag is affixed.

(a) Where no grounding switches are provided, grounding sticks shall be used, one on each side of line, and tags shall be placed on the grounding sticks, antenna switch, or plate power switch in a conspicuous place.

(b) To further reduce excessive radio frequency pickup, ground sticks or short circuits shall be placed directly on the transmission lines near the transmitter in addition to the regular grounding switches.

(c) In other cases, the antenna lines may be disconnected from ground and the transmitter to reduce pickup at the point in the field.

(3) All radio frequency line wires shall be tested for pickup with an insulated probe before they are handled either with bare hands or with metal tools.

(4) The employer shall ensure that the transmitting technician warn the riggers about adjacent lines which are, or may become energized.

(5) The employer shall ensure that when antenna work has been completed, the rigger in charge of the job returns to the transmitter, notifies the transmitting technician in charge that work has been completed, and personally removes the tag from the antenna ground switch.

#### NEW SECTION

**WAC 296-32-24012 Fall protection.** In addition to the following requirements also see WAC 296-32-22555.

(1) The employer shall ensure that at least two qualified climbers are on-site at all times when employees are exposed to fall hazards above four feet.

(2) The employer shall require employees to adhere to acceptable conditions for access, prior to climbing the tower at heights above four feet.

(3) Prior to employees being exposed to elevations above four feet, the employer shall ensure that 100 percent fall pro-

tection systems compatible with the tasks assigned are provided, used, and maintained as required in this chapter and in accordance with the manufacturer's specifications.

(4) In addition to the requirements of WAC 296-32-24005 (5) through (7), all of the following shall occur prior to employees climbing the tower at heights above four feet:

(a) The planning and inspections shall be performed and documented.

(i) All projects requiring climbing shall be planned by a competent person.

(ii) The documentation shall be maintained on-site while work is being performed.

(iii) The documentation shall include the date of the planning and inspection, the name of the competent person performing the planning and inspection, and the site location.

(b) All climbing facilities shall be visually inspected daily at the tower base by a competent person for rust, corrosion, deterioration, structural, mechanical, or other hazards on the climbing facilities that could lead to death or injury of an employee in the performance of their duties. Additionally, the climbing facilities shall be visually inspected for these items as the employees ascend to the elevation point where work is being performed. If any such hazard is identified during this inspection, employees shall not use the climbing facility until such hazards are abated.

(c) Components of a fall protection system (including anchor points) and the fall protection equipment used by employees shall be compatible with one another.

(d) Employees must use engineered anchor points or anchor points designated by a competent person.

**Note:** Additional requirements relating to cranes and personnel lifting are located in chapter 296-155 WAC, Part L.

(5) An employer shall comply with the requirements of this section in one of the following ways:

(a) Require employees to use the 100 percent fall protection systems.

(b) If the fall protection systems described in this section are not present or do not meet the manufacturer's specifications, the employer shall not permit employees to climb the tower at heights above four feet unless an alternative means of access to the work area is used such as an aerial lift, elevated work platform or other engineered systems.

(6) Positioning device system specifications. Positioning device systems must be used in conjunction with 100 percent fall protection systems and their use shall conform to the following provisions:

(a) Positioning harnesses or full body harnesses shall be used.

(b) Positioning devices shall be rigged to prevent an employee from a free fall greater than two feet.

(c) Positioning devices shall be secured to an anchorage capable of supporting at least twice the potential impact load of an employee's fall or three thousand pounds (13.3 kN), whichever is greater.

(d) Connectors shall be drop forged, pressed or formed steel, or made of equivalent materials.

(e) Connectors shall have a corrosion-resistant finish, and all surfaces and edges shall be smooth to prevent damage to interfacing parts of this system.

(f) Connecting assemblies shall have a minimum breaking strength of five thousand pounds (22.2 kN).

(g) D-rings and snap hooks shall be proof-tested to a minimum tensile load of three thousand six hundred pounds (16 kN) without cracking, breaking, or taking permanent deformation.

(h) Snap hooks shall be a locking type snap hook designed and used to prevent disengagement of the snap hook by the contact of the snap hook keeper by the connected member.

(i) Reserved.

(j) Unless the snap hook is designed for the following connections, snap hooks shall not be engaged:

(i) Directly to webbing, rope or wire rope;

(ii) To each other;

(iii) To a D-ring to which another snap hook or other connector is attached;

(iv) To a horizontal lifeline; or

(v) To any object which is incompatibly shaped or dimensioned in relation to the snap hook such that unintentional disengagement could occur by the connected object being able to depress the snap hook keeper and release itself.

(7) Vertical lifelines.

(a) All employees suspended from a boatswain's chair or rope descent system must use an independent fall arrest system where the fall arrest anchorage is separate from the suspension system anchorage.

(b) All employees must be connected at all times to the fall arrest system while they are suspended.

(c) All rope used for suspended personnel must have a minimum breaking strength of five thousand pounds for each employee.

(d) Rope used for suspended personnel must not be used for material handling.

(e) The design of a descent control mechanism shall prevent the device from causing an uncontrolled descent.

(f) The design of the manual descent device shall permit operation only when rigged in the correct manner.

(8) Self-rescue devices. Self-rescue devices are not a fall protection system. Self-rescue devices used to self-rescue after a fall shall meet the following requirements:

(a) Use self-rescue devices according to the manufacturer's instructions; and

(b) Self-rescue devices must be addressed by the fall protection work plan.

(9) When working from an aerial lift/crane basket:

(a) Employees must maintain 100 percent fall protection;

(i) When accessing the tower/structure from the aerial lift/crane basket the employee must first tie-off to the tower/structure; and

(ii) After tying-off to the tower/structure the employee must then immediately unhook from the aerial lift/crane basket and access the tower.

**Note:** An approved break away lanyard may be used to maintain 100 percent fall protection.

(b) Employees must maintain 100 percent fall protection:

(i) When accessing the aerial lift/crane basket from the tower/structure the employee must first tie-off to the aerial lift/crane basket; and

(ii) Then immediately access the aerial lift/crane basket; and

(iii) Then immediately unhook from the tower/structure.

**Note:** If all the requirements in subsection (9) of this section are met, the aerial lift guardrails may be used to access the tower and get back into the aerial platform.

(10) Ladder safety systems and related support systems for climbing facilities that are used by employees as a means of 100 percent fall protection shall conform to all of the following criteria:

(a) Prior to climbing the structure, a competent person shall ensure that the ladder safety system has been inspected for proper operation and that all components used with the ladder safety system are compatible.

(b) To perform an inspection, the competent person shall do all of the following:

(i) Approach the ladder at the base and connect to the functional safety climb system.

(ii) Attach to the base of the fall arrest system. If the attachment point is above six feet, then 100 percent fall protection shall be used. The 100 percent fall protection shall be attached to an alternate approved anchorage point.

(iii) Forcibly engage the device without letting go of the ladder.

(iv) If the device does not function properly, employees shall not use the device until it functions properly.

(c) If a climbing facility is obstructed, inhibiting the effective use of the ladder safety system, an alternative means of 100 percent fall protection shall be used that is at least as effective as the types of fall protection described by this chapter.

(11) Fall protection work plan. The employer shall develop and implement a written fall protection work plan including each area of the work place where the employees are assigned and where fall hazards of ten feet or more exist.

(a) The fall protection work plan shall include, but not be limited to:

(i) Identify all fall hazards in the work area;

(ii) Describe the method of fall arrest or fall restraint to be provided;

(iii) Describe the proper procedures for the assembly, maintenance, inspection, and disassembly of the fall protection system to be used;

(iv) Describe the proper procedures for the handling, storage, and securing of tools and materials;

(v) Describe the method of providing overhead protection for employees who may be in, or pass through the area below the worksite;

(vi) Describe the method for prompt, safe removal of injured employees; and

(vii) Be available on the job site for inspection by the department.

(b) Prior to permitting employees into areas where fall hazards exist the employer shall ensure employees are trained and instructed in the items described in this section.

#### NEW SECTION

#### **WAC 296-32-24014 Work during hours of darkness.**

(1) Climbing towers in the hours of darkness shall only be



done after the job hazard assessment has addressed any additional hazards.

(2) Precautions must be addressed for high voltage hazards when working adjacent to substations or transmission/distribution lines which could create additional electrical hazards.

- Notes:**
- For the purpose of this rule, **hours of darkness** means one-half hour before sunset to one-half hour after sunrise.
  - Any ground work and working in the facilities is allowed with adequate lighting, see WAC 296-32-22535(1).

#### NEW SECTION

**WAC 296-32-24018 Emergency response/rescue requirements.** (1) Emergency response. The employer shall establish and document site specific procedures for rescue of employees in the event of an emergency. The employer shall designate its own employees to implement the rescue procedures. The documented procedures shall be available for review by the director of the Washington state department of labor and industries, or his or her designee, upon request.

(2) For elevated high angle rescue the following measures shall be taken:

(a) Ensure at least two competent rescue-trained climbing employees are on-site when employees are working at heights over four feet on the structure. When there are only three employees on-site and one of these employees has been employed for less than twelve months, then that new employee must minimally have documented rescue training which includes steps to be taken in an emergency.

(b) Ensure that personal protective equipment (PPE) and high angle rescue equipment needed to conduct elevated rescues are provided, used, and maintained by the rescue-trained employees.

(c) Train competent rescue employees so they are proficient in the use and maintenance of PPE and high angle rescue equipment needed to conduct elevated rescues.

(d) Train competent rescue employees to perform assigned rescue duties to ensure that they maintain the ability to perform and demonstrate such duties by conducting and documenting simulated rescue operations at least once every twelve months.

(e) The rescue equipment must be used only for rescue and must remain on-site anytime climbers are on towers or other elevated work locations.

(f) The design of the control mechanism shall prevent the user of the device from causing an uncontrolled descent.

(g) The design of the manual descent device shall permit operation only when rigged in the correct manner and have an automatic lock off.

#### NEW SECTION

**WAC 296-32-24020 Rigging plan.** (1) A rigging plan is intended to ensure that the proper procedures, equipment and rigging is used for each operation and to ensure that the supporting structure can support the rigging loads. A rigging plan shall consider the following items:

- (a) Operational and nonoperational construction loads;
- (b) Construction equipment;

- (c) Supporting structure;
- (d) Construction sequence and duration;
- (e) Required load testing and field monitoring.

(2) Rigging plan criteria. A rigging plan may be very detailed and complex or very simple, depending on the type of job and the type of equipment necessary to complete the job. The following data shall be considered when completing a rigging plan:

- (a) General.
  - (i) Scope of work;
  - (ii) Construction sequence;
  - (iii) Duration of construction;
  - (iv) Monitoring requirements;
  - (v) Rigging plan classification;
  - (vi) Gross loads to be lifted;
  - (vii) Height of lift;
  - (viii) Operational and nonoperational wind loadings;
  - (ix) Load lifting restrictions.
- (b) Gin poles.
  - (i) Vertical or tilted position;
  - (ii) Gin pole identification;
  - (iii) Load chart reference number;
  - (iv) Maximum cantilever required;
  - (v) Forces created by tags;
  - (vi) Load line size and number of parts.
- (c) Basket and bridle attachments. Sling size, type, angle and connection details to the structure and to the gin pole.
- (d) Jumping of a gin pole.
  - (i) Jump line size and number of parts;
  - (ii) Block sizes and connection details;
  - (iii) Gin pole attachment details;
  - (iv) Track details and connections to the structure.
- (e) Hoists.
  - (i) Load chart indicating line pull based on number of layers on the drum;
  - (ii) Hoist line pull required;
  - (iii) Cable sizes and breaking strengths;
  - (iv) Hoist anchorage details;
  - (v) End connection efficiencies;
  - (vi) Distance and orientation from tower base.
- (f) Crown blocks.
  - (i) Block size and capacity;
  - (ii) Sling size and applicable rigging hardware;
  - (iii) Attachment details to the structure, foundation or other support.
- (g) Block size and capacity.
  - (i) Sling size and applicable rigging hardware;
  - (ii) Attachment details to the structure.
- (h) Tag lines.
  - (i) Straight or trolley;
  - (ii) Size and type of tag line;
  - (iii) Tag angle restrictions.
- (i) Reserved.
- (j) Cranes.
  - (i) Main;
  - (ii) Tailing;
  - (iii) Pedestal;
  - (iv) Chicago boom.
- (k) Supporting structure.
  - (i) Condition assessment;

- (ii) Temporary guys;
- (iii) Reinforcement to support the rigging loads;
- (iv) Procedures for the removal or reinforcing of structural members;
- (v) Procedures for guy replacement;
- (vi) Procedures for guy tensioning;
- (vii) Guy slippage considerations.
- (l) Miscellaneous.
  - (i) Overhaul ball;
  - (ii) Condition of appurtenances to be removed;
  - (iii) Interference with climbing facilities;
  - (iv) Field welding and cutting procedures.

(3) Rigging plans. For Class II, III and IV rigging plans where a load is raised, lowered or suspended by rigging shall have a documented rigging plan. All work that requires rigging shall be classified in accordance with the proposed scope of work and classifications as outlined below:

(a) All construction or maintenance activities shall have a rigging plan classification outlining the project and the responsibilities within that project. Class II, III and IV rigging plans shall have a documented rigging plan.

(b) An on-site competent rigger shall be designated for all classes of construction or maintenance to identify hazards, and authorize corrective measures. For Class III and IV activities, a qualified person shall coordinate the involvement of a qualified engineer as required when establishing rigging plans. A qualified engineer shall perform the analysis of structures and/or components for Class IV activities.

(c) Proposed activities shall be outlined in a written rigging plan prior to implementation of a Class I, II, III and IV activities. The minimum level of responsibility for establishing a rigging plan is specified below:

(i) Class I. The minimum level of responsibility is a competent rigger; the scope of work does not affect the integrity of the structure and the proposed rigging loads are minor in comparison to the strength of the structure. Gross lift loads shall not exceed three hundred fifty pounds;

**Note:** This class excludes the use of gin poles or other sophisticated lifting devices.

(ii) Class II. The minimum level of responsibility is a competent rigger and the scope of work involves the removal or the addition of appurtenances, mounts, platforms, etc., that involves minor rigging loads in comparison to the strength of the structure. Gross lift loads shall not exceed five hundred pounds;

(iii) Class III. The minimum level of responsibility is a competent rigger communicating with a qualified person.

(A) The qualified person may communicate with a qualified engineer for clarification or information.

(B) Gross lift loads for lift systems attached to the structure shall not exceed two thousand pounds.

(C) This responsibility includes rigging plans that involve work outside the scope of Class I, II or IV construction.

(D) All new structure and foundation construction shall be classified as a minimum Class III plan. Where structure or foundation strength or stability concerns are present, new construction work shall be classified as Class IV.

(E) Work may be deemed Class III by a qualified person where component modifications are made to connections of

structural members where at least one level of redundancy is maintained at all times, the structural member remains secure and engaged in the bracing system, and the work is completed within a continuous workday (for example, bolt replacements on multi-bolt leg flanges). For component modifications where redundancy is in question, the qualified person shall communicate with a qualified engineer for determining the appropriate plan classification. Such communications must be documented and included in the rigging plan.

(F) A qualified person shall be involved for all construction or maintenance activities utilizing cranes or other lifting devices not attached to the structure to ensure proper planning communications between all employers and to determine the need for involvement of a qualified engineer.

(iv) Class IV. The minimum level of responsibility is a competent rigger communicating with a qualified person who will be communicating with a qualified engineer. The scope of work involves custom or infrequent construction methods, removal of structural members or unique appurtenances, special engineered lifts, and unique situations;

(v) All gross lift loads for lift systems attached to the structure in excess of two thousand pounds shall be considered Class IV;

(vi) Planned lifts for lift systems attached to the structure with load position angles exceeding ten degrees, and/or tag angles exceeding seventy degrees for straight tag applications, should include communication with a qualified engineer to ensure the structure and selected attachment point may safely support the resulting rigging forces;

**Note:** Comprehensive information relating to rigging plans, gin poles, site assessment is contained in the following consensus documents: ANSI/TIA 222-G 2016, ANSI/TIA 322 (Loading Analysis, and Design Criteria Related to the Installation, Alteration and Maintenance of Communications Structures, and in conjunction with ANSI/ASSE A10-48 2016 (Criteria for Safety Practices with the Construction, Demolition, Modification and Maintenance of Communications Structures).

## NEW SECTION

**WAC 296-32-24022 Gin poles—Installation.** When installing gin poles, the employer shall ensure that the following requirements are met:

(1) All applicable requirements for design, construction, installation, modification, testing, inspection, maintenance, and operation of gin poles as prescribed by the manufacturer or a registered professional engineer are met.

(2) The gin pole shall be attached to a structure in an arrangement with its upper portion cantilevering above the tower top.

(3) The employer shall ensure that when the gin pole is designed, consideration shall be given to the possibility of personnel climbing the pole to perform rigging functions and for tie off points to accommodate fall protection equipment.

(4) The rooster head which is located at the top of the gin pole shall meet the following requirements:

(a) The side plates shall have bolts or pins with spacers around the sheave so the load line is held in place and side plate distance is controlled.

(b) Sheave diameter and groove shall be designed for the load line size and type being used.

(c) The distance between the sheave edge and the side plate shall not exceed twenty-five percent of load line diameter unless a mechanical means is provided to contain the load line within the sheave groove.

(5) Tracks used to guide and support gin poles during the jumping process shall not be used as a bridle or mid-level support unless specifically designed for such use.

(6) The load line is used to raise and lower the intended load. The load line shall leave the hoist at ground level, go through a block at the base of the tower, then up through the middle of the pole, through the rooster head and back down to the ground to pick up the intended load.

(7) A gin pole chart shall be provided for each pole. Gin pole charts shall contain all of the following information as a minimum:

(a) Identification number or other reference.

(b) Gin pole description.

(c) Safe lifting capacities (gross load) based on cantilever projection ( $L_a$ ), overall gin pole length ( $L$ ), and type of tag.

**Note:** ( $L_a$ ) is the length of the pole that sticks up above and is not supported by the tower.

(d) Reaction forces at gin pole attachment points.

(e) A table to convert degrees to a field measurement.

(f) A warning that the load chart is for lifting loads and to reduce the safe lifting capacity by one half when lifting personnel.

(8) All lifts shall be within the ratings allowed in the "load chart." Any lift or lifting to be allowed on a special basis, which is outside of the "load chart," shall only be allowed at the direction of a registered professional engineer. Special monitoring and measuring conditions, as specified by the engineer, shall be provided and used in the field during all "special engineered lifts."

(9) Markings for gin poles shall be as follows:

(a) Each gin pole shall be permanently marked with an identification number that references a specific load chart.

(b) For proper assembly, each section and leg of the gin pole shall be marked in a specified sequence.

(10) The designer/engineer specified straightness tolerances shall be used for inspection. Minimum inspection criteria for gin poles shall be done by a qualified person as follows:

(a) A detailed documented inspection annually or within one year prior to being placed in service.

(b) A general visual inspection during assembly prior to use on a specific project.

(c) After any abnormal occurrence.

(11) Rigging equipment for the gin pole shall comply with all of the following:

(a) Wire/synthetic rope, slings, chains, shackles, turnbuckles, links, hooks, sheaves, rotating rooster heads, blocks, and hoists, used in a gin pole lifting arrangement shall meet the manufacturer's safe working load limits. In addition, each component other than chain slings, shall have a nominal breaking strength of not less than five times the static load applied. Chain slings shall have a nominal breaking strength of not less than four times the static load applied. Consideration for end fitting losses and actual positioning of connecting parts shall be given.

(b) Lugs or other devices for lifting or attaching the gin pole in position shall be designed with load and resistance factors appropriate for their intended use.

(c) Alloy chains and chain terminations shall be rated for overhead lifting. Alloy chains shall be identified with a manufacturer's mark indicating the grade of the chain.

(d) Only properly heat treated hooks and shackles shall be used. The manufacturer's load rating shall be stamped on the product.

(e) The breaking strength of the sheave shall equal or exceed the breaking strength of the wire rope intended for the sheave.

#### NEW SECTION

**WAC 296-32-24024 Gin poles—Use.** (1) Gin pole use shall comply with the following:

(a) A user's gin pole load chart shall be provided for each pole.

(b) Any special engineered lift that is outside of the load chart shall only be allowed at the direction of a registered professional engineer. Monitoring and measuring conditions, as specified by a registered professional engineer, shall be provided and used during all special engineered lifts.

(c) Modifications or repairs of a gin pole shall be made with like or similar materials to meet or exceed the original specifications. Modifications or repairs shall be recertified by a registered professional engineer.

(d) A mechanism shall be in place to prevent the gin pole from tipping during the jumping process.

(2) Wire rope used for rigging shall be as follows:

(a) Compatible with the sheaves of the rooster head and hoisting blocks.

(b) Lubricated in accordance to manufacturer specifications to prevent corrosion and wear.

(c) End connections shall be terminated per industry and manufacturer's specifications.

(d) Wedge sockets shall have a minimum tail length of one rope lay with a properly torqued clip attached to prevent accidental disengagement.

(e) Only manufactured Flemish eyes will be acceptable.

#### NEW SECTION

**WAC 296-32-24026 Gin poles—Inspections.** The employer shall ensure that gin pole inspections include all of the following:

(1) Gin poles shall have a documented inspection annually by a qualified person.

(2) In addition to the annual inspection, the employer shall designate a competent person who shall visually inspect the gin pole and rigging prior to each use, and during use, to ensure it is in safe operating condition. Any deficiencies shall be repaired before use continues.

(3) During each inspection, a qualified person or a competent person shall do all of the following:

(a) Inspect the legs and bracing members for bends or distortion.

(b) Inspect the straightness tolerances for the overall assembly (including leg and bracing members).

(c) Visually inspect the welds for quality, deformation, cracks, rust, pitting, or loss of cross sectional area.

(d) Inspect the members for excessive rust, pitting, or loss of cross sectional area.

(e) Inspect the sling attachment points for distortion, wear, cracks, and rust.

(f) Ensure that proper bolts are used and all associated hardware is in good condition.

(g) Inspect side plates on rooster heads for distortion or other damage.

(h) Inspect all attachment hardware, including rigging and parts such as cables, slings, and sling attachment points, shackles, hooks, and sockets for wear, distortion, cracks, and rust.

(i) Ensure that all problems identified during the inspection are corrected before placing the gin pole into service.

#### NEW SECTION

**WAC 296-32-24028 Base mounted hoists used for overhead material lifting and personnel lifting.** (1) This section provides minimum design and use criteria for hoist mechanisms used for overhead material lifting and personnel lifting during the construction and/or maintenance of communication structures. All hoist mechanisms shall meet applicable requirements for design, construction, installation, testing, inspection, maintenance and operations as prescribed by the manufacturer or the qualified person designing the system. At a minimum the hoist mechanism shall comply with this standard.

(2) Design. The following identifies the minimum design parameters for those hoists used for overhead lifting and for lifting personnel.

(a) Design for overhead lifting.

(i) The hoist used for overhead lifting shall meet the applicable requirements for design, construction, installation, testing, inspection, maintenance, modification, repair and operations as prescribed by the manufacturer.

(ii) Where manufacturers' specifications are not available, the limitations assigned to the equipment shall be based on the determinations of a registered professional engineer.

(iii) The hoist mechanism may be designed to lift materials and also personnel with the same drum or drums.

(b) Design for personnel lifting.

(i) If the hoist has the ability to free spool, it must have a positive locking system to prevent free spooling during hoisting.

(ii) If the unit has the capability of exceeding two hundred feet per minute during operations, it must have a line speed indicator.

(iii) Hoists used for lifting personnel shall have a visible tag on the unit indicating the unit complies with the standard.

(c) Structural design for overhead and personnel lifting.

(i) During hoist assembly, the frame of the winch assembly and attached components shall be designed to resist at least two times the maximum attainable line pull.

(ii) Flatness of the mounting surface shall be held to tolerances specified by the hoist manufacturer.

(iii) The alignment of winch assembly components will be maintained within limits that shall prevent premature dete-

rioration of gear teeth, bearings, splines, bushings and any other parts of the hoist mechanism.

(iv) All winch drums shall have a positive means of attaching the wire rope to the drum. The hoist drum shall be designed to raise and lower 125 percent of the rated load of the hoist.

(d) Brakes. Brakes for overhead lifting.

(i) Hoist brakes shall be capable of controlling the descent of a load.

(ii) Hoist brakes shall be capable of stopping the load and minimize inertia loading.

(iii) If the hoist mechanism has the ability to free spool, then it shall have a means of controlling the load during the raising and lowering of loads.

(iv) Brakes shall be provided to prevent the drum from rotating in the lowering direction and shall be capable of holding the load indefinitely without attention from the operator.

(v) Units that have no continuous mechanical linkage between the brake actuator and the brake shall have a means of holding the load when there is a loss of brake actuating power on the winch assemblies.

(vi) Static brakes shall be provided to hold the drum from rotating in the lowering direction and shall be capable of holding the load indefinitely without attention from the operator.

(vii) Brakes, which are applied on stopped hoist drums, shall have sufficient impact capacity to hold 1.5 times the rated torque of the hoist.

(viii) Brakes shall be provided with adjustments, where necessary, to compensate for wear and to maintain adequate force on springs where used.

(ix) Foot-operated pedals, where provided, shall be constructed so the operator's feet will not readily slip off, and the force necessary to move the pedals shall be easily accomplished.

(x) Foot-operated brakes shall be equipped with a locking device to maintain the brake in a loaded position.

(e) Brakes for lifting personnel.

(i) Winch assemblies shall be provided with a primary brake and at least one independent secondary brake, each capable of holding 125 percent of the lifting and lowering capacity of the hoist.

(ii) The primary and secondary brake shall be directly connected to the drive train of the winch assembly and shall not be connected through belts, chains, etc.

(iii) The primary and secondary brake, when actuated, shall decelerate, stop and hold the load in a controlled manner.

(iv) When the primary brake fails, the secondary brake shall actuate automatically and hold the load in a controlled manner.

(v) A means to set brakes automatically in the event the loss of brake actuating power shall be provided on winch assemblies that have no continuous mechanical linkage between the brake actuator and the brake.

(vi) Brakes shall be automatically applied upon return of the control lever to its center (neutral) position.

(f) Controls for overhead and personnel lifting.

(i) All controls used during the normal operation of the hoist mechanism shall be located within easy reach of the operator while at the operator's station.

(ii) There shall be means to start and stop the prime mover under emergency conditions from the operator's station.

(iii) All control levers shall be clearly marked and easily visible from the operator's station.

(iv) All hoist control levers that are designed to do so, must spring return to neutral when released or have a comparable system that allows the braking mechanism to set automatically.

(g) Hour meter. In order to comply with the inspection criteria, there shall be an hour meter used as a means of monitoring the operating time a hoist winch assembly operates.

(h) Machine guarding.

(i) Belts, pulleys, gears, shafts, sprockets, spindles, drums, fly wheels, chains or other rotating parts shall be fully guarded to prevent employee contact.

(ii) All exhaust pipes shall be guarded where exposed to employee contact.

(3) Inspection and maintenance. The following are the requirements for inspection and maintenance for all hoists:

(a) General guidelines.

(i) The hoist shall have a documented daily inspection by a competent person before use.

(ii) Prior to initial use, all new, altered or modified hoist mechanisms shall be inspected by a qualified person.

(iii) Inspection records shall be available and accessible for a minimum of two years.

(iv) The teardown inspection records shall be available until the next teardown inspection is completed.

(v) Any hoist that has been idle for a period of over six months shall be given an annual inspection prior to use.

(vi) Any hoist that has an unknown history of repair or maintenance shall have a tear down inspection prior to use.

(b) Inspection criteria. Before use, a competent person familiar with the applicable hoist shall visually inspect the hoist to verify that the following conditions are met:

(i) A documented daily inspection shall be performed which shall include at a minimum:

(A) Engine oil level shall be checked.

(B) Engine coolant levels shall be checked.

(C) Check for external oil leaks.

(D) Hydraulic oil reservoir level shall be checked.

(E) All safety devices and brakes shall be checked for wear and tear to assure they function properly.

(F) A visual inspection shall be conducted for loose or missing structural connections.

(ii) A documented semi-annual inspection shall include the daily inspection and the following:

(A) Winch oil level shall be checked.

(B) All safety devices and brakes shall be tested to assure they are functioning properly.

(C) A visual inspection shall be conducted for loose or missing structural connections.

(D) A complete oil analysis shall be conducted.

(E) The winch assembly shall be dynamically tested in both the hoisting and lowering directions while under a load of at least 30 percent of the hoist lifting capacity.

(F) The inspection shall be documented in writing and maintained for two years.

(iii) A documented annual inspection shall include the items in the daily and semi-annual along with the following:

(A) Lubricating oil and hydraulic fluids shall be tested according to the manufacturer's specification for contaminants and replaced if necessary.

(B) The annual inspection shall be documented and maintained for two years.

(c) Teardown criteria for overhead material lifting. A teardown inspection of the winch assembly shall be completed under the supervision of a qualified person using the manufacturer's specifications and includes at a minimum the following:

(i) A teardown inspection shall include the hoist being completely disassembled, cleaned and inspected, replacement of all worn, cracked, corroded or distorted parts such as pins, bearings, shafts, gears, brake rotors, brake plates, drum and/or base;

(ii) After a teardown inspection, a certificate shall be issued that includes the following:

(A) The effective date of the repair.

(B) The asset and serial numbers of the unit.

(C) The name of the repair shop.

(D) The name of the qualified person.

(d) Teardown criteria for lifting personnel.

(i) Those winch assemblies that adhere to the required daily, monthly, semi-annually and yearly inspection criteria shall conform to the following teardown inspection time frame:

(A) Severe duty every three years.

(B) Moderate duty every five years.

(C) Infrequent use every seven years.

(ii) Those winch assemblies that do not adhere to this documented inspection criteria, shall have a teardown inspection every three years.

(iii) During any inspection, items found that may affect the performance of the unit must be repaired before use.

(iv) Documentation of the inspection shall include, but not be limited to, winch model and serial number, name and employer of repair/inspection technician, date and description of findings, parts replaced and test results.

(4) Repair and modifications. The manufacturer's specifications and guidelines for repair and modification shall be used; however, when these are not available, the following minimum requirements shall be used:

(a) All repairs and modifications shall be made under the supervision of a qualified person.

(b) Repaired hoists shall be line pull tested to the maximum rated load and the winch assembly shall be rotated several times in both hoisting and lowering directions under maximum rated load while checking for smooth operation.

(c) Prior to initial use, all new, altered or modified hoist mechanisms shall be inspected by a competent person.

(d) Documentation of all modifications and repairs shall be maintained and available for review for a minimum of two years.

(e) If modifications alter the line pull or performance of the unit, then a revised load chart must be developed and installed to reflect the change.

(5) Training. All hoist operators shall be qualified in accordance to the complexities of the work and of the hoist they are operating. Hoist operators may attain qualification through a combination of classroom training; experience gained under the direct supervision of a qualified hoist operator, and demonstrated proficiency.

(a) During training or until the training requirements are met, the operator must not operate the hoist during personnel hoisting operations.

(b) An operator shall be trained in accordance to the class of machine they will be operating:

- (i) Class A - 1,000 lbs. or less.
- (ii) Class B - 1,000 lbs. to 5,000 lbs.
- (iii) Class C - Greater than 5,000 lbs.

(c) The operator at a minimum shall have the following training:

(i) Ensure the hoist operator has classroom training in hoist operations; a minimum of forty hours as a hoist operator under the direct supervision of a qualified hoist operator, not less than eight hours in the operation of the class of hoist or one of the same type, and has demonstrated the ability to safely operate the hoist.

(ii) The operator shall have documented practical training on the safe operation of the applicable hoist by using the following:

- (A) Operator's manual provided by the manufacturer;
- (B) Company policy;
- (C) Be familiar with hand signals being used;
- (D) Be familiar with the operations of two-way radios if they are being used;
- (E) Be familiar with the work being completed.

(iii) The operator shall have a designated signal person and must take a stop signal from anyone.

(6) Operator requirements and responsibilities. Operator and operator trainees shall meet the following physical qualifications unless it can be shown that failure to meet the qualifications will not affect the operation of the hoist. In such cases, specialized clinical or medical judgments and tests may be required.

(a) Vision of at least 20/30 Snellen in one eye and 20/50 in the other, with or without corrective lenses.

(b) Ability to distinguish colors, regardless of position, if color differentiation is required.

(c) Adequate hearing to meet operational demands, with or without hearing aid.

(d) Sufficient strength, endurance, agility, coordination, and speed of reaction to meet the operation demands.

(e) No tendencies to dizziness, seizures or similar characteristics.

(f) No evidence of having physical or emotional instability that could render a hazard to the operator or others.

(g) The operator shall have adequate eyesight for the operation.

(h) The operator shall not engage in any practice which will divert their attention while operating.

(i) The operator shall be responsible for those operations under their direct control.

(j) Whenever there is any doubt as to safety, the operator shall have the authority to stop and refuse to handle the load until the situation is remedied.

(k) The operator shall not leave their position at the controls while a load is suspended.

(l) Before starting the hoist mechanism the operator shall ensure that:

- (i) The daily inspection has been done;
- (ii) All controls are in the off position; and
- (iii) All personnel are in the clear.

(7) Designated operators. The hoist mechanism can be operated by:

- (a) Designated operators;
- (b) Trainees under the direct supervision of a designated operator;
- (c) Qualified maintenance and test personnel during repairs or testing; or
- (d) Inspectors.

(8) Operations. During operations, the hoist operator shall comply with the following:

(a) The drum flange will be a minimum of two times the wire rope diameter higher than the top layer of the wire rope.

(b) The hoist drum shall have a diameter or enough layers on the drum to maintain a minimum of an 18:1 pitch diameter ratio or the proper reduction based on the applicable D:d ratios.

(c) No less than three wraps of wire rope shall be maintained on the drum at all times.

(d) The hoist shall be positioned so that it is level and the distance between the drum and the foot block at the base of the tower will allow proper spooling of wire rope.

(e) The foot block shall be anchored to prevent displacement and be supported to maintain proper alignment.

(f) An accessible fire extinguisher of 5BC rating or higher shall be at the operator's station.

(9) Operator's manual. There must be an operator's manual on-site and readily available for the applicable unit which was developed by the manufacturer, or registered professional engineer, for the specific make and model of hoist being used.

(10) Load chart. The following postings shall be at the control station readily visible or available to the operator.

(a) Where the rated capacities are inaccessible the operator must immediately cease operations or follow safe shut-down procedures until the rated capacities are available.

(b) Rated load capacities, recommended operating speeds and special hazard warnings, or instructions shall be conspicuously posted on all hoists.

(c) If a gin pole, derrick, pedestal crane or similar special lifting device is used with a base mounted hoist or winch to make lifts on a structure, the operator shall have a load chart on-site for the lifting mechanism and its use shall be included in the rigging plan for the job.

(11) Hoist anchorage.

(a) The hoist anchorage, at a minimum, shall have a working load limit (calculated with a minimum 2.0 safety factor) equal to or greater than the maximum anticipated hoist load. Alternately, a load test of 1.5 times the maximum anticipated hoist load under the expected site conditions during the lift may be used to verify the adequacy of the hoist anchorage.

(b) Twisting, turning and sliding resistance shall be investigated.

(c) When calculating allowable sliding resistance, the assumed coefficient of friction shall not exceed 0.20 and incorporate a minimum 2.0 safety factor unless the coefficient of friction is determined by a registered professional engineer.

(d) The weight of the hoist shall be considered with the minimum load line remaining on the drum for the lift.

(e) When personnel are lifted, the maximum anticipated hoist load shall not exceed 50 percent of the hoist anchorage capacity.

(12) Communications.

(a) Loads being hoisted shall remain in continuous sight of and/or in direct communication with the operator or signal person.

(b) When hand signals are used, the employees must use standard hand signals.

(c) In those situations where direct visual contact with the operator is not possible and the use of a signal person would create a greater hazard, direct communication alone, such as by radio, shall be used.

(d) When radios are used, they shall be nontrunked closed 2-way selective frequency radio systems and the device(s) shall be tested on-site before beginning operations to ensure that the signal transmission is; effective, clear, reliable and the operator shall utilize a hands free system for receiving such signals.

(13) Weather conditions. Loads shall not be hoisted during adverse weather conditions (high winds, electrical storms, snow, ice or sleet) or when there is other impending danger, except in the case of emergency or employee rescue.

(14) Rigging plans. All hoist operations shall be part of a rigging plan as applicable in this chapter. The hoist operator shall have knowledge and understanding of the rigging plan and a copy readily available.

## NEW SECTION

**WAC 296-32-24032 Personnel lifting—General requirements.** (1) Personnel platforms and/or their suspension systems must be designed, constructed and tested according to ASME B30.23-2005, Personnel Lifting Systems. The design and manufacturer's specifications must be made by a registered professional engineer.

**Note:** Additional requirements relating to personnel lifting are located in chapter 296-155 WAC, Part L.

(2) Before an employee may perform any job related to hoisting employees aloft for work, the employee shall receive training on all facets of the process. The operator of the hoist shall have a thorough understanding and comply with subsections (2) through (9) of this section pertaining to hoisting employees on the hoist line.

(3) Overhaul ball. This subsection sets forth the minimum requirements for the design and use of an overhaul ball as part of the lifting system.

(a) The weight of the ball shall overhaul the weight of the load line based on its own weight.

(b) If the ball is an integral part of the system and the load goes through the ball, then it must be designed accordingly.

(c) The ball shall be designed with attachment points at the top and bottom.

(d) A maximum of two employees may be attached to the ball at one time.

(4) An anti-two block device shall be used on all hoists, except where an employer can demonstrate that ambient radiation frequency (RFR) precludes that use. In such case, a site-specific rigging plan shall be established and maintained on-site to ensure that two blocking cannot occur and that effective communication between the hoist operator and personnel being hoisted is maintained. This plan may include a cable marking system, an employee situated on the tower in a position to observe the top block, or any other system that will adequately ensure communication. All of the following shall apply:

(a) A qualified person shall make the following determinations:

(i) The rigging, hoist line, and slings shall have a factor of safety of 10:1 against failure during personnel lifts;

(ii) The hoist line used to raise or lower employees must be wire rope and may be equipped with a swivel to prevent any rotation of the employees;

(iii) If a swivel is not used, then an alternate means shall be used to keep the employees under control at all times;

(iv) If spin resistant wire rope is used, additional and more frequent inspections are required due to different wear trends.

(b) When hoisting personnel (versus material), the hoist capacity load rating shall be derated by a factor of two (reduced by one half) and must maintain a 10:1 factor of safety after the reduction is considered. All employees shall be provided with and required to use the proper personal protective equipment (including fall protection equipment) that shall be inspected each day before use.

(c) Except where the employer can demonstrate that specific circumstances or conditions preclude its use, a guide line (tag line) shall be used to prevent the employees or the platform from contacting the tower during hoisting.

(d) The gin pole shall be thoroughly inspected before use by a competent person to determine that it is free from defects including, but not limited to, damaged and/or missing members, corrosive damage, missing fasteners and cracked or broken welds at joints, and general deterioration.

(e) The gin pole shall be attached to the tower as designed by a registered professional engineer. There shall be a minimum of two attachment locations, one at the bottom of the gin pole and one near the top of the tower or the highest position available on the structure.

(f) The personnel load capacity and material capacity of the lifting system in use shall be posted at the site near the location of the hoist operator. If the system is changed (for example, if the gin pole angle is changed), the posted capacity shall be changed accordingly.

(g) In situations where a gin pole is not being used on a communication tower and similar structures, a crown block may be used on the structure instead of a gin pole for access to the work location.

(5) A trial lift of the maximum intended personnel load shall be made from ground level to the location to which personnel are to be hoisted.

(a) The trial lift shall be made immediately prior to placing personnel on the hoist line.

(b) The hoist operator shall determine that all systems, controls, and safety devices are activated and functioning properly.

(c) A single trial lift may be performed for all locations that are to be reached from a single set-up position.

(d) The hoist operator shall determine that no interference exists and that all configurations necessary to reach those work locations remain under the limit of the hoist's rated capacity and additionally maintain a 10:1 factor of safety against failure.

(e) The trial lift shall be repeated prior to hoisting employees whenever the hoist is moved and set up in a new location or returned to a previously used position.

(f) After the trial lift, employees shall not be lifted unless the following conditions are met:

(i) Hoist wire ropes are determined to be free of damage in accordance with WAC 296-32-22555 and 296-155-53404.

(ii) Multiple part lines are not twisted around each other.

(iii) The proof testing requirements have been satisfied.

(g) If the hoist wire rope is slack, the hoisting system shall be inspected to ensure that all wire ropes are properly seated on drums and in sheaves.

(h) A visual inspection of the hoist, rigging, base support, and foundation shall be made by a competent person immediately after the trial lift to determine whether testing has exposed any defect or adverse effect upon any component of the structure.

(i) Any defects found during the inspection that may create a safety hazard shall be corrected and another trial lift shall be performed before hoisting personnel.

(ii) Prior to hoisting employees and after any repair or modification, the system shall be proof tested to its rated load, holding it in a suspended position for 5 minutes with the test load evenly distributed (this may be done concurrently with the trial lift).

(iii) After proof testing, a competent person shall inspect the rigging. Any deficiencies found shall be corrected and another proof test shall be conducted.

(6) A prelift meeting shall be held before the trial lift at each location and each time a new employee is assigned to the operation. The prelift meeting shall meet both of the following requirements:

(a) The hoist operator, each employee to be lifted, and the crew chief shall attend.

(b) The hoist operator shall review the procedures to be followed and all appropriate requirements contained in this rule with the other individuals present.

(7) The employer shall ensure that all trial lifts, inspections, and proof tests shall be performed and documented, and the documentation shall remain on-site during the entire length of the project. The employer shall ensure that the prelift meeting is documented, and the documentation shall remain on-site during the entire length of the project.

(8) Employees shall be hoisted to their work stations by using a personnel platform or by using a boatswain chair and/or boatswain seat-type full body type harness.

(a) When a boatswain chair or boatswain seat-type full body harness is used to hoist employees, the following shall apply:

(i) Not more than two employees may be hoisted at a time.

(ii) When hoisting an employee in a boatswain type full body harness, the harness shall be attached to the hoist wire rope line in such a manner as to utilize the boatswain seat part of the harness, placing the employee into a sitting position and a fall arrest lanyard must be attached from the back D ring of the full body harness to a separate attachment point.

(iii) Only locking-type snap hooks shall be used.

(iv) The harness shall be equipped with two side rings and at least one front and one back D ring.

(v) The hoist line hook shall be equipped with a safety latch that can be locked in a closed position to prevent loss of contact.

(vi) Employees must maintain 100 percent tie-off while moving between the hoist line and the tower.

(b) When a personnel platform is used, the following provisions must be followed:

(i) The maximum rate of travel shall not exceed two hundred feet per minute when a tag or trolley line is used to control personnel hoists. When a tag or trolley line cannot be used, the rate of travel of the employee being hoisted shall not exceed one hundred feet per minute.

(ii) In all personnel hoist situations, the maximum rate shall not exceed 50 feet per minute when personnel being lifted approaches to within fifty feet of the top block.

(iii) The use of free-spooling (friction lowering) is prohibited. When the hoist line is being used to raise or lower employees, there shall be no other load attached to any hoist line and no other load shall be raised or lowered at the same time on the same hoist.

(iv) As-built drawings approved by a registered professional engineer shall provide the lifting capacity of the gin pole and shall be available at the job site.

(v) The gin pole raising line shall not be used to raise or lower employees unless it is rated for lifting employees.

(vi) Employees must maintain 100 percent tie-off while moving between the personnel platform and the tower.

(9) Employees being hoisted shall remain in continuous sight of and/or in direct communication with the operator or signal person. The following shall apply:

(a) In those situations where direct visual contact with the operator is not possible and the use of a signal person would create a greater hazard for the person being hoisted, direct communication alone, such as by radio, shall be used.

(b) When radios are used, they shall be nontrunked closed 2-way selective frequency radio systems. When hand signals are used, the employees must use industry standardized hand signals.

(10) Employees shall not be hoisted during adverse weather conditions (high winds, heat, cold, lightning, rain, snow or sleet) or other impending danger, except in the case of emergency employee rescue. The competent person shall make the determination.

(11) The hoist system (gin pole and its base hoists) used to raise and lower employees on the hoist line, shall not be



used unless the following clearance distances in Table 8 are maintained at all times during the lift:

**Table 8**

Power line voltage phase to phase (kV)	Minimum safe clearance (feet)
50 or below	10
Above 50 to 200	15
Above 200 to 350	20
Above 350 to 500	25
Above 500 to 750	35
Above 750 to 1,000	45

**Note:** Additional requirements relating to rigging are located in chapter 296-155 WAC, Parts F-1 and L.

### NEW SECTION

**WAC 296-32-24034 Helicopters used for lifting loads.** This section sets forth the minimum requirements for individuals working with helicopters used as a method for the installation, replacement, and/or removal of antennas and antenna supporting structures.

(1) Helicopters and helicopter cranes used for external load lifting during construction, maintenance and demolition activities shall comply with any and all applicable regulations of the Federal Aviation Administration (FAA) Part 133 for helicopter external sling load operations.

(2) Operator/pilot responsibilities. The helicopter operator/pilot shall be responsible for their machine and the operations of their equipment.

(3) FAA flight plan. All helicopter external load lifting must be reviewed by the FAA to determine if an FAA Congested Area Flight Plan must be applied for. If a plan is required, it must be filed and approved by the FAA prior to the day of the lift.

(4) Loose gear, equipment and objects. Every practical precaution shall be taken to provide for the protection of the employees from flying objects in the rotor downwash. All loose gear, equipment and materials within one hundred feet of the load lifting area and setting the load, and all other areas susceptible to rotor downwash shall be secured or removed.

(5) Operational parameters.

(a) The aircraft owner/operator/pilot(s) shall be responsible for the helicopter load lifting operations. The weight of an external load shall not exceed the manufacturer's rating for the specific aircraft being used. The helicopter operator/pilot shall be responsible for size, weight and manner in which loads are connected to the helicopter. If, for any reason, the helicopter operator/pilot believes the lift cannot be made safely, the lift shall not be made.

(b) The helicopter operator/pilot shall be familiar with the following:

- (i) Load capacities at altitudes and air densities;
- (ii) Hover capacities and limits;
- (iii) Emergency operation and release of electricity operated cargo hooks;
- (iv) Emergency jettison of external sling load;

- (v) Static discharge of external sling load; and
- (vi) Rotor downwash hazards during external sling load operations.

(6) Prejob planning. The use of a helicopter for lifting loads requires careful planning. The work must be organized around the aircraft and the factors that govern its operation such as load limitations, surrounding terrain and structures, and weather conditions. This requires the participation and cooperation of everyone involved. Planning includes, but is not limited to:

- (a) Locate and plan the staging area;
- (b) Provide for fire watch and spills;
- (c) Prepare flight plans;
- (d) Divide the job into lifting zones;
- (e) Plan the load lifting sequence;
- (f) Do alternate day planning.

(7) Helicopter on board hoists. Helicopters or helicopter cranes equipped with on board hoists or winches shall not be allowed to be attached or connected to any fixed structure on the ground at any time.

(8) Signaling systems. Signal systems between aircrew and ground personnel shall be understood and checked in advance of hoisting the load. This applies to either radio or hand signal systems.

(9) Helicopter refueling. Due to the load lifting abilities and capacities of individual models of aircraft flight with low fuel levels is common. It may become necessary to refuel the helicopter at the designated staging/lift area. Care must be given to ensure the aircraft is grounded per the manufacturer's recommendation during all refueling activities.

(10) Daily preflight briefing. Prior to each day's operation a job hazard assessment shall be conducted. This assessment shall set forth the plan of operation for all individuals involved in the helicopter external sling load lift. The preflight briefing shall include, but not be limited to, the following:

- (a) Weather forecast and visibility for the day of the lift(s);
- (b) Confirmation of flight path;
- (c) Load lifting sequence;
- (d) Individual load weights;
- (e) Wind speed and direction monitoring;
- (f) Ground crew responsibilities;
- (g) Load receiving crew's responsibilities;
- (h) Pilot's responsibilities;
- (i) Communications/signaling;
- (j) Aircraft fuel loading and refueling;
- (k) Emergency plan for load jettison and landing.

(11) Lifting plan.

(a) The lifting plan shall at a minimum cover:

- (i) Load identification;
- (ii) Lifting sequence; and
- (iii) Load orientation marks or tags.

(b) Loads that do not require upending shall be oriented in the same direction in the staging area as the laydown area. You must:

- (i) Plan the layout of the staging area to avoid any light or unstable material that may blow around; and

(ii) Plan the lifting and flight path to avoid flying over employees and any material still being installed or not yet secure in the laydown area.

(12) Job hazard analysis/risk assessment. During the job hazard assessment, at a minimum, identify, assess, and eliminate or provide protection against risks posed by:

- (a) Power lines;
- (b) Cranes in the area;
- (c) Structures, roof and structure profiles;
- (d) Loose, unsecured material in staging or roof landing area;
- (e) Temporary, unsecured structures in staging or landing area;
- (f) Roof openings and roof access - Cover both to prevent building pressurization and to eliminate fall hazards;
- (g) Unprotected roof edges;
- (h) Pinch, crush, and similar danger points in the load/lift/land sequence;
- (i) Weather conditions;
- (j) Public safety.

(13) Rigging slings and inspection.

(a) Rigging slings for suspended external loads must consist of steel IWRC type slings at all direct connection points to the load being lifted.

(b) Synthetic slings may only be used in the intermediate length of the rigging between the direct steel sling and the cargo hook connection.

(c) The connection between the slings and the helicopter cargo hook must be a single steel rigging ring of either round or oval shape and must be of compatible shape and size to ensure immediate connection and release when the connection between the cargo hook and the ring is terminated by deliberate action of the pilot.

(d) All rigging components and assemblies shall have documented inspections each day before use.

(14) Tag lines.

- (a) Tag lines must be used on all external sling loads.
- (b) All tag lines shall be equipped at the end with a weight of sufficient size to assure that the line will not be induced into the main rotor or tail rotor under any operating condition.

(c) Hand spliced synthetic rope connections are not allowed in any helicopter external load operation.

(d) Tag line length shall be kept shorter than the load line length to assure the lines cannot be blown into the main rotors.

(15) Remotely operated cargo hooks.

(a) All cargo hooks shall have the electrical activating device so designed and installed as to prevent inadvertent operation.

(b) In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load.

(c) The hooks shall be tested prior to each day's operation to determine that the release functions properly, both electrically and mechanically.

(16) Personal protective equipment (PPE).

(a) Personal protective equipment for employees receiving the load shall consist of approved eye protection and head protection.

(b) Head protection shall have chin straps to prevent inadvertent loss of head protection during operations.

(c) Loose-fitting clothing likely to flap in the downwash, and thus be snagged on hoist line, shall not be worn.

(17) Housekeeping. Good housekeeping shall be maintained in all helicopter loading and unloading areas.

(18) Hooking and unhooking loads.

(a) When employees are required to perform work under a hovering helicopter, a safe means of access and egress shall be provided for employees to reach the hoist line hook and engage or disengage cargo slings.

(b) Employees shall not perform work under hovering craft except when necessary to hook, unhook or secure loads.

**Note:** Load shape, orientation, and packaging. Load shapes can affect in-flight handling. Loads can be marked with their required orientation by using north or other marks to match mark to lay-down locations. Remove loose sheeting, tarps, or other wrappings. Loose material can blow around, injure employees, and damage the aircraft if drawn into engine intakes or rotor blades.

(19) Static charge/discharge. The suspended load shall be dissipated with an insulated grounding device before any construction personnel touch the suspended load, or protective rubber gloves shall be worn by all ground personnel touching the suspended load.

**Notes:**

- A static charge can develop on any suspended external sling load. The amount of static electricity that may be present prior to discharging is directly related to the temperature, humidity, altitude and time the load is suspended and/or flown during the external sling load operation.

- The load may be equipped with a weighted grounding conductor slung below the load to discharge the static current if the pilot approves this method of discharge.

(20) Approach distance. No unauthorized person shall be allowed to approach within one hundred feet of the helicopter when the rotor blades are turning.

(21) Approaching a running helicopter.

(a) When approaching or exiting a helicopter with blades rotating, all employees shall remain in full position with arms and hands kept low.

(b) Employees shall avoid the area from the cockpit or cabin rearward unless authorized by the helicopter operator to work there.

(c) Personnel shall not approach the area of the tail rotor at any time.

(22) Communications.

(a) There shall be constant reliable communication between the pilot, competent rigger and a designated employee of the ground crew who acts as a signalman during the period of loading and unloading.

(b) The signalman shall be distinctly recognizable from other ground personnel.

(23) Personnel training. The personnel performing the work shall be trained in advance of any helicopter external sling load operation in all facets of the operation. This training can be accomplished in the prelift briefing. Employees shall be made aware of the following:

- (a) Static and discharge procedures;
- (b) Wind/downwash characteristics;
- (c) Noise;
- (d) Fall protection to release hook;

- (e) Tagline parameters;
- (f) Flying objects due to wind;
- (g) PPE requirements;
- (h) Rigging connections;
- (i) Communication/signaling;
- (j) Emergency planning.

- WAC 296-32-360 Tree trimming—Electrical hazards.
- WAC 296-32-370 Buried facilities—Communications lines and power lines in the same trench.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 296-32-215 Safe place standard.
- WAC 296-32-220 General.
- WAC 296-32-230 Training.
- WAC 296-32-240 Employee protection in public work areas.
- WAC 296-32-250 Tools and personal protective equipment—General.
- WAC 296-32-260 Rubber insulating equipment.
- WAC 296-32-270 Personal climbing equipment.
- WAC 296-32-280 Ladders.
- WAC 296-32-290 Vehicle-mounted material handling devices and other mechanical equipment.
- WAC 296-32-300 Materials handling and storage.
- WAC 296-32-310 Cable fault locating and testing.
- WAC 296-32-320 Grounding for employee protection—Pole lines.
- WAC 296-32-330 Overhead lines.
- WAC 296-32-340 Underground lines and cable vaults.
- WAC 296-32-350 Microwave transmission.

**WSR 17-07-108  
PROPOSED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed March 21, 2017, 10:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-03-110.

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance and chapter 296-17A WAC, Classifications for Washington workers' compensation insurance.

Hearing Location(s): Labor and Industries Building, 7273 Linderson Way S.W., Room S117, Tumwater, WA 98501, on April 28, 2017, at 10:00 a.m.

Date of Intended Adoption: May 23, 2017.

Submit Written Comments to: Jo Anne Attwood, P.O. Box 44148, Olympia, WA 98504-4148, email JoAnne.Attwood@lni.wa.gov, fax (360) 902-4799, by April 28, 2017, 5:00 p.m.

Assistance for Persons with Disabilities: Contact office of information and assistance by April 24, 2017, TTY (360) 902-5797.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:

**2017 Miscellaneous classification and rating rule changes**

	WAC Numbers	WAC Description	What is Changing	Reason for Change
1.	WAC 296-17-31007	Owner optional coverage	Adding language for exempt employments and how to elect coverage.	Ease of doing business. This rule provides further interpretation of an existing statute. There is no information currently in rule describing elective coverage for exempt employments as described in RCW 51.12.020. This information should be available in rule along with the information regarding owner optional coverage. Over the year, the AAG recommended this amendment be made as customers should not have to look in two places (the statutes and the rules) to find this information.
2.	WAC 296-17A-0518	Nonwood frame buildings and structures N.O.C. and concrete construction, N.O.C.	Correcting a grammatical error found in the current rule; clarifying language and making it easier for employers to appropriately apply; and reduce opportunities for unintentional or intentional application of the term "structures." There is no change in how the classification is currently applied and this update will not impact employers' rates.	Ease of doing business. Staff requested clarification due to the difficulty understanding the intent of the language. This will reduce confusion for external customers and allow staff to provide consistent service to customers.

	WAC Numbers	WAC Description	What is Changing	Reason for Change
3.	WAC 296-17A-1501-20  WAC 296-17A-4904-20  WAC 296-17A-5308-20  WAC 296-17A-6511-20	Community action organizations—All other employees N.O.C.  Community action organizations— Clerical office employees.  Community action organizations— Professional services and administrative employees.  Community action organizations— Chore services/home care assistants.	Reformat community action organization classifications to improve readability.	Ease of doing business. Staff requested clarification due to the difficulty understanding the intent of the language. This will reduce confusion for external customers and allow staff to provide consistent service to customers.
4.	WAC 296-17A-0219-01	Construction specialty services.	Add a reference to prefab panels.	Ease of doing business. Improving consistency of classification references. Classification 0302 Brick, block, and stone masonry work, N.O.C. excludes "mechanically placed block or prefab panels next to a roadway for noise barrier, median or retaining wall, which is reported in class 0219." Scopes language for 0219 doesn't currently mention prefab panels. The Classification Advisement for Walls, Fences, and Barriers does currently reference prefab panels in 0219.
5.	WAC 296-17A-1102-02 WAC 296-17A-1102-03 WAC 296-17A-1102-04	Interstate trucking. Intrastate trucking. Combined interstate/intrastate trucking.	Rewrite to: <ul style="list-style-type: none"><li>· Make classification clearer and easier to understand.</li><li>· Clarify distinction between 1102 and Classification 2002 Freight handling.</li></ul>	Account managers asked for clarification on how to apply Classification 2002 to the trucking industry. See #8.
6.	WAC 296-17A-1105-01	Street sweeping; parking lot sweeping; dust control; and portable chemical toilet servicing.	Correct typographical error, devises to devices.	Maintain an accurate classification plan.
7.	WAC 296-17A-1303  WAC 296-17A-1304	Telephone companies—All other employees.  Telephone companies—Exchange operators, clerical office and sales personnel.	Update titles to include "telecommunications." 1303-00 Telecommunication service providers—All other employees. 1304-00 Telecommunication service providers—Administrative, office and sales personnel.	Ease of doing business. The title of these classifications must be updated to align with modern technology terminology. The scopes language is unchanged.
8.	WAC 296-17A-2002-13  WAC 296-17A-2002-31	Freight handler services, N.O.C.  Refrigeration car— Loading, unloading or icing.	Rewrite to: <ul style="list-style-type: none"><li>· Make classification clearer and easier to understand.</li><li>· Clarify distinction between Classification 2002 and Classification 1102.</li></ul>	Account managers [managers] asked for clarification on how to apply Classification 2002 to the trucking industry. See #5.
9.	WAC 296-17A-3905-09	Fast food drive ins N.O.C.	Add smoothie bars to language.	Ease of doing business. Documenting current practice of classifying smoothie bars in 3905-09. As smoothie bars have become more popular, staff asked that the classification language contain this specific type of fast food establishment.
10.	WAC 296-17A-4814-00 WAC 296-17A-4815-00 WAC 296-17A-4816-00	Farms: Internship program.	Remove reference to "governing classification" to "principal farm classification."	Governing classification rule no longer exists.

	WAC Numbers	WAC Description	What is Changing	Reason for Change
11.	WAC 296-17A-6906-02	Volunteer law enforcement officers of state agencies—Medical aid only.	Clarify that law enforcement officers of state agencies are mandatorily covered.	Ease of doing business. Staff requested clarification be added to 6906 to delineate mandatory coverage from elective coverage for state agencies. Mandatory coverage does not require an elective coverage application.

The department intends to review these chapters and make revisions to:

- Correct typographical and other errors (such as invalid telephone numbers and out-of-date references),
- Revise wording and formatting to make the rules easier to understand and apply, and
- Incorporate and formalize existing agency practices (such as expressly including in a risk classification employment that the department currently includes by interpretation or analogy).

In addition, this rule making will provide further interpretation of an existing statute. There is no information currently in rule describing elective coverage for exempt employments as described in RCW 51.12.020. This information should be available in rule along with the information regarding owner optional coverage. Over the year, the AAG recommended this amendment be made as customers should not have to look in two places (the statutes and the rules) to find this information.

The purpose of this rule making is not to make substantive changes to how the department classifies employment, but to review and revise the classification plan to ensure it is clear and understandable. These changes will not change the way we calculate employer rates, our reporting requirements, or how we classify businesses.

Reasons Supporting Proposal: As part of this rule making, the department also intends to review these chapters for need, clarity, and consistency as required by SSB 5679 (chapter 30, Laws of 2013 2nd sp. sess.) to make changes where possible to reduce the regulatory burden on employers insured with the state fund.

Statutory Authority for Adoption: RCW 51.04.020 and 51.16.035.

Statute Being Implemented: RCW 51.16.035.

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

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

Name of Agency Personnel Responsible for Drafting: Jo Anne Attwood, Tumwater, Washington, (360) 902-4777; Implementation: Chris Bowe, Tumwater, Washington, (360) 902-4826; and Enforcement: Victoria Kennedy, Tumwater, Washington, (360) 902-4997.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency is exempt from conducting a small business economic impact statement since the proposed rules set or adjust fees or rates pursuant to legislative standards described in RCW 34.05.310 (4)(f) and do not change current coverage options for employers and workers.

A cost-benefit analysis is not required under RCW 34.05.328. Since the proposed rules do not change any existing coverage options for employers or workers and adjust

fees pursuant to legislative standards, they are exempted by RCW 34.05.328 (5)(b)(vi) from the requirement for a cost-benefit analysis.

March 21, 2017  
Joel Sacks  
Director

AMENDATORY SECTION (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

**WAC 296-17-31007 Owner/officer coverage and coverage for exempt employments.** (1) **As a business owner, can I buy workers' compensation insurance to cover myself or to cover workers who are exempt from mandatory coverage as defined in RCW 51.12.020, 51.12.035, or 51.12.170?**

Yes. ~~((If you are a))~~ Coverage is not required, but is available for sole proprietors, partners, qualifying corporate officers, ~~((or))~~ qualifying members of a limited liability company ~~((you may not be required to have industrial insurance coverage as provided in RCW 51.12.020. In these instances, you can still obtain workers' compensation coverage from us)), and for exempt employments defined in RCW 51.12.020, 51.12.035, or 51.12.170.~~ We refer to this coverage as optional coverage ~~((since as the owner/officer, you are not required to have this insurance. Because owner insurance coverage is optional)).~~ For owner optional coverage, you must meet certain conditions and requirements which are detailed on the application for owner/officer optional coverage. These requirements include:

- Completing an application for optional owner/officer coverage;
- Reporting owner/officer hours in the classification assigned to your business that is applicable to the work being performed by the owner/officer;
- Submitting a supplemental report which lists the name of each covered owner/officer; and
- Reporting four hundred eighty hours or actual hours worked each quarter for each covered owner/officer and in the applicable workers' compensation classification code.

**(2) When will my owner/officer coverage or coverage for exempt employments become effective?**

Your coverage will become effective ~~((upon receipt of your application in the department in writing or by fax))~~ the day after we receive your completed and signed application for optional coverage, unless you indicate ~~((a future))~~ that optional coverage should begin at a later date. ~~((However, no such person or beneficiaries thereof shall be entitled to benefits unless the date of injury were the next day or later after coverage was elected. We will not make coverage effective~~

~~on a date prior to our receipt of)~~ Coverage cannot begin before the day after we receive your completed application (for owner/officer coverage).

(3) **How does cancellation work? You may cancel your optional owner/officer coverage or elective coverage for exempt employments by notifying the department in writing. For sole proprietors and partners, we will cancel your coverage either the same day we receive your written notice to cancel or on the future date you indicate. For corporations, LLCs or elective coverage for exempt employment, we will cancel the coverage thirty days from the date we receive your written request to cancel.**

The department may cancel optional coverage if any required payments have not been made. Cancellation will become effective no later than thirty days from the date of the cancellation notice the department sent to the employer.

When your account balance is paid, if you want to reestablish owner/officer coverage, you must submit a new application for owner/optional coverage.

(4) **Where can I (~~obtain~~) get an application for owner/officer coverage, or coverage for exempt employments?** There are separate applications for owner/officer optional coverage and coverage for exempt employments. To (~~obtain a copy of this~~) get these applications, go to <http://www.lni.wa.gov/FormPub> (~~(or)~~), contact your local labor and industries office (~~(We are listed in the government pages of your local directory)~~), or you can call (~~our underwriting section~~) the employer services division at 360-902-4817.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

#### **WAC 296-17A-0219 Classification 0219.**

##### **0219-00 Construction specialty services, N.O.C.**

Applies to contractors engaged in the installation or removal of lighting for highways, streets, roadways, parking lots, and light standards. It also applies to the installation, repair, or removal of signs, guardrails, roadside reflectors, lane buttons or turtles, or lane markers not covered by another classification (N.O.C.). Usually, these activities occur as finishing touches after new or existing roadways are paved or surfaced. Roadway lighting includes traffic signal lights, and halogen or mercury vapor lights mounted to metal standards erected alongside the roadway. Signs (such as speed limit, road condition, city and town mile destination) are mounted on overpasses or on wood or metal poles erected alongside the roadway. Guardrails include metal barriers mounted on wood or metal poles driven into the roadside shoulder. Lane markers, lane buttons or turtles consist of small reflectors, or chips of plastic or concrete attached to the road with an adhesive bonding material. This classification includes the related hook-up of power to the light standard.

This classification excludes the installation of power lines that feed into power poles which is to be reported separately in the applicable construction classification for the work being performed.

**Special note:** This classification excludes exterior sign erection, repair, or removal not in connection with displaying highway, street, or roadway information or conditions even

though such signs may be erected or placed alongside roadways (such as advertisement bill boards, business, or personal property signs) which is to be reported separately in classification 0403.

##### **0219-01 Construction specialty services**

Applies to contractors engaged in specialty services such as the painting or striping of highways, streets, roadways, or parking lots not covered by another classification (N.O.C.). This classification includes painting, striping, numbering, or lettering of highways, streets, roadways, parking lots, parking garages, airport runways, taxi ways, curbs, roadway dividers, median strips, and special traffic areas such as fire, bus, handicap, and no parking zones. The paint or other material used for these markings is usually applied to the surface using a mechanical device, either self-propelled or towed by a truck or other motor vehicle. In some instances, the paint will be applied manually with brush or roller which is included in this classification. This classification includes the application of asphalt sealants to roadways or parking lots (~~(This classification also includes)~~); mechanically placed block or prefab panels next to a roadway for noise barrier, median, or retaining walls; and concrete barrier installation, in connection with road construction, by a concrete barrier rental business or by a flagging contractor who also supplies the concrete barriers. This includes the flaggers who are necessary during the installation of the barriers as well as any flaggers the company supplies to the road construction project itself.

This classification excludes the interior painting of buildings which is to be reported separately in classification 0521, the exterior painting of buildings or structures which is to be reported separately in classification 0504; application of asphalt sealant to driveways which is to be reported separately in classification 0504-06; the rental of the concrete barriers and other flagging equipment which is to be reported separately in classification 6409; and flaggers who are not employed by a concrete barrier rental business or by a flagging contractor who also supplies the concrete barriers which are to be reported separately in classification 7116 or 7118 as appropriate.

AMENDATORY SECTION (Amending WSR 16-14-085, filed 7/5/16, effective 1/1/17)

#### **WAC 296-17A-0518 Classification 0518.**

##### **0518-00 Nonwood frame buildings and structures, (~~N.O.C. and concrete construction~~) new construction and repair, N.O.C.**

Applies to work on nonwood frame buildings and structures (without regard to size or number of stories) when the superstructure (skeleton framework or building shell) consists of concrete, iron or steel, or a combination of concrete, iron, steel and/or wood, as well as all other building construction not covered by another classification. It includes, but is not limited to, structures such as:

- Waste treatment and waste disposal plants;
- Fish hatcheries;
- Public and commercial (covered and multilevel) parking lots and parking garages;
- Stadiums;

- High-rise office and housing complexes.
- Activities include, but are not limited to:
- The set up and tear down of forms;
  - Placement of reinforcing steel, rebar, or wire mesh;
  - Pouring and finishing concrete within the building or structure such as:
    - Foundations;
    - Monolithic slabs;
    - Ground supported floor pads;
    - Precast or poured in place load bearing floors or wall panels;
    - Columns;
    - Pillars;
    - Balconies;
    - Stairways.
  - The raising and/or standing up (by crane or boom) of concrete:
    - Tilt-up walls;
    - Precast floors and wall portions;
    - Metal frames(;
    - Members into place)).
  - Securing frame and slabs by:
    - Bolts;
    - Framing anchors;
    - Seismic bearings, springs, and cylinders;
    - Rivets;
    - Welds.

Note: The installation of ((interior and)) exterior doors, door frames, all interior framing, and other interior rough-in carpentry work is reported separately in classification 0516.

All other phases of construction not specific to pouring a concrete foundation, placing or joining the iron or steel framework, or attaching concrete slabs, steel, iron, or wood to building shell, are classified separately according to their phase of construction.

The following structures are classified as indicated:

- 0701 applies to dams.
- 0201 applies to bridges, trestles, viaducts, tunnels, breakwaters, jetties, levees, and dikes.
- 0202 applies to piles, wharfs, piers, and docks.
- 0508 applies to towers, smoke stacks, blast furnaces, silos, windmills, exterior tanks, and derricks.

Classification 0518 is a construction industry classification (see WAC 296-17-31013).

#### **0518-01 Metal carport and service station canopies**

Subclassification **0518-01** excludes:

- Nonstructural sheet metal patio cover/carports which are reported separately in classification **0519**;
- Wood carports which are reported separately in the applicable framing/siding classifications.

Classification 0518 is a construction industry classification (see WAC 296-17-31013).

#### **0518-03 Building wrecking or demolition - Iron, steel, concrete, or wood**

Applies to contractors engaged in wrecking or demolishing iron, steel, concrete, or wood buildings or structures not covered by another classification, whether dismantling board by board, by bulldozer, by crane equipped with a steel ball, explosives, or other means.

Work contemplated by this classification includes:

- Incidental sales of materials;
- Burning or hauling away of debris;
- Barricading the site and walkways;
- Guards and flaggers on-site and in adjacent areas when dismantling operations are underway.

Classification 0518 is a construction industry classification (see WAC 296-17-31013).

AMENDATORY SECTION (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

#### **WAC 296-17A-1102 Classification 1102.**

##### ~~(1102-02 Interstate trucking~~

~~Applies to establishments engaged in interstate trucking. Interstate trucking is the hauling of goods, bulk merchandise, or commodities that either originate out of state or have an out of state destination. Duties include driving, in some cases loading/unloading vehicles, and mechanical repair. The loading and unloading may be done with forklifts, pallet jacks, hand trucks, or by hand. The drivers may have an assigned route, or they may be assigned a different destination each trip.~~

~~**Special notes:** Trucking establishments are allowed to have both the trucking classification 1102 and the freight handling classification 2002. However, hours cannot be split for a worker who works in both classes. If an employee has any driving duties, all their hours are to be reported in classification 1102. Establishments subject to this classification are to report actual hours worked for each driver. However, the hours are to be capped at 520 hours per driver per quarter. Detailed information can be found in the general audit rule covering the trucking industry and in RCW 51.12.095.~~

##### **1102-03 Intrastate trucking**

~~Applies to establishments engaged in intrastate trucking. Intrastate trucking is the hauling of goods, bulk merchandise, or commodities *only* within the boundaries of a state. The goods must have both an origin and destination in the same state. Duties include driving, in some cases loading and unloading the vehicles and mechanical repair. The loading and unloading may be done with forklifts, pallet jacks, hand trucks, or by hand. The drivers may have assigned routes or a territory. Businesses in this classification usually have terminals or storage depots where merchandise is stored awaiting transfer.~~

~~**Special notes:** Trucking establishments are allowed to have both the trucking classification 1102 and the freight handling classification 2002. However, hours cannot be split for a worker who works in both classes. If an employee has any driving duties, all their hours are to be reported in classification 1102. Establishments subject to this classification are to report actual hours worked for each driver. However, the hours are to be capped at 520 hours per driver per quarter. Detailed information can be found in the general audit rule covering the trucking industry and in RCW 51.12.095.~~

##### **1102-04 Combined interstate/intrastate trucking**

~~Applies to establishments engaged in a combination of interstate and intrastate trucking. Interstate trucking is the hauling of goods which either originate out of state or have~~

an out-of-state destination. Intrastate trucking is the hauling of goods *only* within the boundaries of a state. The goods have both an origin and destination in the same state. Duties include driving, in some cases loading and unloading the vehicles, and mechanical repair. The loading and unloading may be done with forklifts, pallet jacks, hand trucks, or by hand. The drivers may have assigned routes or a territory. Establishments in this classification usually have terminals or storage depots where merchandise is stored awaiting transfer.

**Special notes:** Trucking establishments are allowed to have both the trucking classification 1102 and the freight handling classification 2002. However, hours cannot be split for a worker who works in both classes. If an employee has any driving duties, *all* their hours are to be reported in classification 1102. Establishments subject to this classification are to report actual hours worked for each driver. However, the hours are to be capped at 520 hours per driver per quarter. Detailed information can be found in the general audit rule covering the trucking industry and in RCW 51.12.095.) Classification 1102 applies to establishments engaged in interstate or intrastate trucking, or a combination of interstate and intrastate trucking.

- Interstate trucking is the hauling of goods that either originate out-of-state or have an out-of-state destination.

- Intrastate trucking is the hauling of goods within the boundaries of Washington state. The goods must have both an origin and destination in Washington state.

Duties include:

- Driving
- Loading and unloading vehicles
- Mechanical repair.

Equipment may include, but is not limited to:

- Forklifts
- Hand trucks
- Pallet jacks
- Tractor and trailers.

**Special notes:**

- Businesses in this classification may have terminals or storage depots where goods are stored awaiting transfer. Workers who exclusively work at these facilities may be reported in classification 2002. All hours for workers who spend any time driving or riding in trucks for businesses subject to this classification must be reported in classification 1102. Hours cannot be split between 1102 and 2002.

**Note:** The term "lumper" is sometimes applied to laborers who unload cargo.

- Driver hours are capped at 520 hours per driver per quarter. See the special trucking industry rules, WAC 296-17-35203(3).

- The special exception rules for permanent yard and shop operations apply to trucking firms assigned classification 1102. See subclassification 5206-80 and WAC 296-17-31018.

- See RCW 51.08.180 and 21.12.095 concerning owner operators of trucking.

**Excluded operations:** Classification 1102 excludes:

- Firms hauling their own goods. Hauling goods owned by the firm is a general inclusion, which is classified according to the nature of the firm's business.

**Note:** For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

For administrative purposes, classification 1102 is divided into the following subclassification(s):

**1102-02 Interstate trucking**

**1102-03 Intrastate trucking**

**1102-04 Combined interstate/intrastate trucking**

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

### **WAC 296-17A-1105 Classification 1105.**

#### **1105-00 Septic tank pumping**

Applies to establishments engaged in septic tank pumping services. Operations contemplated by this classification include driving, locating the septic tank and digging as necessary to uncover it, connecting the pumping hose to the septic tank, pumping out the sludge, and disposing of the waste products.

This classification excludes installation and repair of septic tanks or systems which are to be reported separately in classification 0108, and cleaning of sewage treatment tanks which is to be reported separately in classification 0504.

#### **1105-01 Street sweeping; parking lot sweeping; dust control; and portable chemical toilet servicing**

Applies to establishments that perform street sweeping and parking lot sweeping services for others. Trucks used for sweeping are equipped with rotating or nonrotating brushes and vacuum/suction ((~~devices~~)) devices. In addition to driving duties, the drivers may adjust/unclog the brushes, and clean the holding tanks contained on the sweeping or pumping vehicle. This classification also includes snow removal by plowing, delivery of portable toilets and the related servicing and disposal of waste products which are recovered by establishments subject to this classification. This classification also includes trucks that spray water on roads and other surfaces for dust control.

#### **1105-02 Vacuum truck services**

Applies to establishments engaged in vacuum truck services for others. Services include, but are not limited to, cleaning of duct work, picking up waste oils, lubricants, anti-freeze, bilge water, and similar waste products. Establishments subject to this classification may offer a regular service, one-time or occasional pick-up service. The driver has kits for testing the materials and, if there is a question, a sample is taken to a laboratory for further analysis. If the waste material is acceptable, it is pumped into the tanker truck. The waste material may be consolidated with similar products and "bulked" in storage tanks, then taken to appropriate treatment or disposal facilities, or it may be taken directly to appropriate facilities. If it is to be "bulked" with other products, it will be filtered as it is pumped into the storage tanks and allowed to sit for a few days for any water to settle to the bottom of the tank and be drained off. Bulk materials may be hauled away by the establishment's own trucks or by common carrier. Establishments subject to this classification may pick up containers of used oil filters and bring them into their plant where they are sorted into crushed and uncrushed filters, and



gaskets removed. This activity is included within the scope of this classification if it is an incidental service. This classification includes the related disposal of waste products which are recovered by establishments subject to this classification.

This classification excludes septic tank pumping which is to be reported separately in classification 1105-00.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-1303 Classification 1303.**

**1303-00 (~~Telephone companies~~) Telecommunication service providers - All other employees**

Applies to establishments engaged in providing telecommunications services which enable subscribers to converse or transmit coded data. Work contemplated by this classification includes, but is not limited to, the regular installation, maintenance and repair of machinery and equipment, the extension and maintenance of lines (including poles, towers and underground lines), clearing right of ways, installing telephones and wiring in buildings, and making service connections when done by employees of an employer having operations subject to this classification. Machinery and equipment includes, but is not limited to, central control and switching center equipment, relays, computers, antennae, cranes, forklifts, vehicles and garages, warehouse equipment, and hand tools.

This classification excludes clerical office, exchange operators and administrative personnel who are to be reported separately in classification 1304; contractors engaged in underground line construction maintenance or repair who are to be reported separately in classification 0107; contractors engaged in overhead line, pole, and tower construction, maintenance or repair, who are to be reported separately in classification 0509; contractors engaged in wiring within buildings and making pole-to-house hook-ups who are to be reported separately in classification 0608; contractors engaged in the installation or contract maintenance of machinery or equipment who are to be reported separately in classification 0603; and establishments primarily engaged in selling telephone equipment retail which are to be reported separately in classification 6406.

**1303-01 Telegraph companies - All other employees**

Applies to establishments engaged in providing telecommunication services which enable printed messages (telegrams) to be transmitted from one agent to another for receipt by, or delivery to, a designated party. Telegraph companies also provide a "moneygram" service which allows an agent to receive a sum of money at one location and transmit a message to another agent to pay out the same amount of money to a designated party at another location. Work contemplated by this classification includes the regular installation, maintenance and repair of machinery and equipment, the extension and maintenance of lines (including poles, towers and underground lines), installing transmission and receiving equipment, the clearing of right of ways, and delivery work when done by employees of an employer having operations subject to this classification. Machinery and equipment includes, but is not limited to, cables, control panels, poles, lines, relays,

computers, cranes, forklifts, vehicles and garages, warehouse equipment, and hand tools.

This classification excludes clerical office and administrative personnel who are to be reported separately in classification 1304; contractors engaged in underground line construction maintenance or repair who are to be reported separately in classification 0107; contractors engaged in overhead line, pole, and tower construction, maintenance or repair, who are to be reported separately in classification 0509; contractors engaged in wiring within buildings who are to be reported separately in classification 0608; and contractors engaged in the installation or contract maintenance of machinery or equipment who are to be reported separately in classification 0603.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-1304 Classification 1304.**

**1304-00 (~~Telephone companies — Exchange operators, clerical~~) Telecommunication service providers - Administrative, office, and sales personnel**

Applies to the administrative and clerical office personnel of establishments engaged in providing telecommunication services which enable two or more parties to converse or transmit coded data. For purposes of this classification, administrative personnel includes clerical office, sales, data processing, exchange operators, customer service, marketing, and retail telephone store (when operated by the telephone company) sales personnel.

This classification excludes all other telephone company employees who are to be reported separately in classification 1303.

**1304-01 Telegraph companies - Clerical office and sales personnel**

Applies to administrative and clerical office personnel of establishments engaged in providing telecommunication services which enable printed messages (telegrams) or moneygrams to be transmitted from one agent to another for receipt by a designated party. For purposes of this classification, administrative personnel includes clerical office, sales, data processing, customer service, marketing, cashiers and operators of telegraph, teletype or other transmitting and receiving equipment.

This classification excludes all other telegraph company employees who are to be reported separately in classification 1303.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

**WAC 296-17A-1501 Classification 1501.**

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

Applies to employees of counties and taxing districts, not covered by another classification (N.O.C.), who:

- Operate machinery or equipment, including transit bus drivers;
- Perform manual labor;

- Supervise a work crew performing manual labor such as custodial or maintenance.

This classification includes administrative personnel such as:

- Engineers, safety inspectors, and biologists who have field exposure;
- Internal inventory and supply clerks.

For purposes of this classification, field exposure is defined as any exposure other than the normal travel to or from a work assignment.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;
- Electric light and power public utility districts which are to be reported separately in classification 1301;
- Firefighters who are to be reported separately in classification 6904;
- Hospital districts which are to be reported separately in classification 6105;
- Irrigation system public utility districts which are to be reported separately in classification 1507;
- Law enforcement officers who are to be reported separately in classifications 6905 and 6906, as appropriate;
- Port districts which are to be reported separately in classification 4201;
- Privately owned and operated bus or transit systems which are to be reported separately in classification 1407;
- School districts, library districts or museum districts which are to be reported separately in classification 6103 or 6104;
- Water distribution or purification system public utility districts which are to be reported separately in classification 1507;
- Volunteers who are to be reported separately in classification 6901 or 6906, as appropriate.

#### **1501-01 Housing authorities, N.O.C. - All other employees**

Applies to employees of housing authorities, not covered by another classification, who:

- Perform manual labor;
- Supervise a work crew performing manual labor such as custodial or maintenance, and machinery or equipment operators.

This classification includes all functional operations of a housing authority such as:

- Building and grounds maintenance;
- Inspection, maintenance and repairs, including minor structural repairs;
- Janitorial service.

Also included in this classification are:

- Administrative personnel such as engineers and safety inspectors who have field exposure;
- Internal inventory and supply clerks;
- Meter readers;
- Security personnel, other than those with law enforcement powers.

For purposes of this classification, housing authorities are defined as nonprofit, public and political entities which serve the needs of a specific city, county or Indian tribe. The nature and objectives of some of the projects undertaken by

housing authorities include providing decent, safe and sanitary living accommodations for low income persons, or providing group homes or halfway houses to serve people with disabilities or juveniles released from correctional facilities. A housing authority has the power to:

- Prepare, carry out, lease and operate housing facilities;
- Provide for the construction, reconstruction, improvement, alteration or repair of any housing project;
- Sell or rent dwellings forming part of the project to or for persons of low income;
- Acquire, lease, rent or sell or otherwise dispose of any commercial space located in buildings or structures containing a housing project;
- Arrange or contract for the furnishing of the units;
- Investigate into the means and methods of improving such conditions where there is a shortage of suitable, safe and sanitary dwelling accommodations for persons of low income.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;
- New construction or major alteration activities which are to be reported separately in the appropriate construction classifications;
- Security personnel with law enforcement powers who are to be reported separately in classification 6905;
- Volunteers who are to be reported separately in classifications 6901 or 6906, as appropriate.

#### **1501-08 Native American tribal councils - All other employees**

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

- Administrative personnel such as engineers, safety inspectors, and biologists who have field exposure;
- Internal inventory and supply clerks of the tribal council.

For purposes of this classification, field exposure is defined as any exposure other than the normal travel to and from a work assignment.

This classification excludes:

- Clerical office and administrative employees who are to be reported separately in classification 5306;
- Electric light and power public utility districts which are to be reported separately in classification 1301;
- Firefighters who are to be reported separately in classification 6904;
- Hospital districts which are to be reported separately in classification 6105;
- Irrigation system public utility districts which are to be reported separately in classification 1507;
- Law enforcement officers who are to be reported separately in classifications 6905 and 6906;
- New construction or reconstruction activities which are to be reported separately in the appropriate construction classification;

- School districts, library districts or museum districts which are to be reported separately in classification 6103 or 6104;

- Water distribution or purification system public utility districts which are to be reported separately in classification 1507.

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

Only those tribal operations which are also provided by county governments are subject to classification 1501. Some activities are considered to be normal operations to be included in this classification. These include, but are not limited to:

- Building maintenance;
- Garbage and sewer works;
- Grounds keepers;
- Park maintenance;
- Road maintenance;
- Visiting nurses and home health care.

All other tribal council operations which are not normally performed by a county government shall be assigned the appropriate classification for the activities being performed.

Some operations are outside the scope of classification 1501 and are to be reported separately in the applicable classifications. These include, but are not limited to:

- Bingo parlors;
- Casinos;
- Fish/shellfish hatcheries;
- Food banks;
- Gift shops;
- Grocery stores;
- Head Start programs;
- Liquor stores;
- Logging;
- Meals on wheels;
- Motels/hotels;
- Restaurants;
- Tobacco stores;
- Tree planting/reforestation.

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

Applies to establishments not covered by another classification (N.O.C.), engaged in providing all support operations and services on a military base on a contract basis. Such services include, but are not limited to:

- Data processing;
- Photography;
- Mail delivery (on post and to other military facilities);
- Hotel/motel services;
- Mess halls;
- Recreational facilities;
- Grounds and building maintenance;
- Vehicle maintenance;
- Maintenance of such facilities as water works, sewer treatment plants and roads.

This classification excludes:

- New construction or construction repair projects which are to be reported separately in the applicable construction classification for the work being performed;

- Contracts for specific activities on a military base such as, but not limited to, building maintenance, club or mess hall operations, or vehicle maintenance, which are to be reported separately in the applicable classification for the work being performed;

- Firefighters who are to be reported separately in classification 6904;

- Law enforcement officers who are to be reported separately in classification 6905;

- Clerical office and administrative employees who are to be reported separately in classification 5306.

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

#### **1501-20 Community action organizations - All other employees, N.O.C.**

Applies to organizations performing ~~((an array of))~~ two or more services to support the local community and ((citizens)) people in need. ((The services provided by community action organizations may)) This classification applies to employees who are not otherwise classified (N.O.C.) and who perform manual-type labor, or who supervise a work crew performing manual labor. Workers in this classification include, but are not limited to:

~~((• Child care; after school care;~~

~~• Alternative schools; in home chore services;))~~ • Cooks;

~~• Food bank staff;~~

~~• Drivers;~~

~~• Janitorial or maintenance and repair work staff;~~

~~• Weatherization services staff.~~

See classifications 4904-20, 5308-20, and 6511-20 for other community action classifications.

**Note:** The services provided by the community action organizations include, but are not limited to:

~~• After school care;~~

~~• Alternative schools;~~

~~• Child care;~~

~~• Counseling and assistance;~~

~~• Decent, safe and sanitary living accommodations for low-income or needy people;~~

~~• Drug and alcohol recovery programs;~~

~~• Employment or independence training;~~

~~((• Counseling and assistance;~~

~~• Drug and alcohol recovery programs;~~

~~• Decent, safe and sanitary living accommodations for low-income or needy citizens;~~

~~• Transitional or emergency housing; weatherization;))~~

~~• Food and clothing banks;~~

~~• In home chore services;~~

~~• Meals;~~

~~• Medical services((~~

This classification applies to employees of community action organizations N.O.C. (not otherwise classified) who perform manual type labor, or who supervise a work crew performing manual labor. Work in this classification includes, but is not limited to:

- Cooks;
- Food banks;
- Drivers;
- Janitorial or maintenance and repair work (weatherization services);
- Transitional or emergency housing;
- Weatherization.

**Note:** Businesses providing only one service described in this ((class may)) classification are to be assigned the classification applicable to the service provided. If all conditions of the general reporting rules have been met, standard exception classifications may apply.

Excluded from this risk classification are:

- New construction or major alteration activities ((which)). Normal maintenance and repair contemplated by this classification includes, but is not limited to, replacing parts on existing fixtures or equipment, repairing existing structures, normal cleaning or janitorial activities, maintaining existing landscaping, and shoveling snow from driveways or walkways. Construction, alteration, or improvements to the properties are not considered normal maintenance and are not contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the community action organization. New construction or major alterations such as the construction of new additions or the construction of new structures are excluded from this classification and are to be reported separately in the appropriate construction classifications;
- Office employees who work exclusively in an administrative office environment who are to be reported in classification 4904-20;
- Professional or administrative employees who may also have duties outside of the office who are to be reported in classification 5308-20;
- Chore workers/home service workers who are to be reported in classification 6511-20;
- ~~((Housing authorities which are to be reported in 1501-01 and 5306-26;))~~
- Individuals employed in welfare special works programs ((which)) who are to be reported in 6505;
- Individuals employed in work activity centers ((which)) who are to be reported in 7309;
- Volunteers who are to be reported in classification 6901 when medical aid coverage has been elected.
- ~~((See classifications 5308-20 and 4904-20 for other community action operations.))~~ **Excluded operations:** Firms engaged as housing authorities are reported in classifications 1501-01 and 5306-26.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

**WAC 296-17A-2002 Classification 2002.**  
**((2002-13 Freight handler services, N.O.C.**

Applies to establishments engaged in packing, handling, shipping, or repackaging merchandise or freight which is owned by others and is not covered by another classification, (N.O.C.). General cargo is usually in boxes, cartons, crates, bales, or bags. Other cargo includes, but is not limited to, lumber, logs, steel, pipe, grains, produce, machinery, and vehicles. These establishments are generally located at railroad yards, airports, or warehouses not located on piers or areas adjoining piers. This classification includes the repackaging of goods from damaged containers. Employees of freight handler services perform duties such as, but not limited to, unloading, checking in and weighing goods, sorting and repackaging goods, tiering (placing in a series of rows one above the other), and reloading goods for shipment. Employments include, but are not limited to, superintendents, checkers, tally men, and lumpers. Machinery and equipment includes, but is not limited to, pallet jacks, hand trucks, forklifts, boom trucks, mobile cranes or overhead track cranes, and hand tools. This classification also includes moving or uncrating, and assembly of modular work stations or other types of office furniture.

This classification excludes drivers and freight handling employees with driving duties who are to be reported separately in classification 1102 without a division of work hours; establishments engaged in loading, unloading, or icing refrigerator cars which are to be reported separately in classification 2002-31; and establishments engaged in warehousing operations for general merchandise which are to be reported separately in classification 2102.

**Special notes:** Establishments engaged as freight handlers have the hazard of the continual movement of goods, in contrast to warehousing operations in classification 2102-00 that usually store goods for long periods of time. In addition, freight handling services providers do not operate warehouses and storage facilities as a general rule. Freight handling operations performed in connection with the loading or unloading of vessels or rail lines on piers or adjoining areas may be subject to coverage under the U.S. Longshore and Harbor Workers Act. Care should be exercised prior to the assignment of this classification to determine proper jurisdiction.

**2002-31 Refrigeration car—Loading, unloading or icing**

Applies to establishments engaged in loading, unloading, or icing refrigeration cars at railroad yards, airports, or warehouses not located on piers or in areas adjoining piers. This classification includes the repackaging of goods from damaged containers. Establishments in this classification have no equity or ownership in the merchandise being handled. They may contract with customers such as, but not limited to, grocery distributors, meat packers, or pharmaceutical suppliers to pick up and deliver frozen goods. Goods are loaded into refrigerated containers and shipped by common carrier or into refrigerated railcars. Icing the refrigeration systems by adding water, ammonia, or other additives is done to maintain the cold temperatures. Machinery and equipment includes, but is not limited to, pallet jacks, hand trucks, forklifts, compressors, and hand tools.

This classification excludes drivers and freight handling employees with driving duties who are to be reported separately in classification 1102 without a division of work hours;

establishments engaged in freight handler services not covered by another classification (N.O.C.) which are to be reported separately in classification 2002-13; and establishments engaged in warehousing operations for general merchandise which are to be reported separately in classification 2102.

**Special notes:** Establishments engaged as freight handlers have the hazard of the continual movement of goods, in contrast to warehousing operations in classification 2102-00 that usually store goods for long periods of time. In addition, freight handling services providers do not operate warehouses and storage facilities as a general rule. *Freight handling operations performed in connection with the loading or unloading of vessels or rail lines on piers or adjoining areas may be subject to coverage under the U.S. Longshore and Harbor Workers Act. Care should be exercised prior to the assignment of this classification to determine proper jurisdiction.*) Classification 2002 applies to providing freight handling services for others. Freight handling services have a facility at a fixed location where they provide services that include, but are not limited to:

- Checking goods
- Handling freight by hand, or with machinery and equipment
- Icing refrigeration cars
- Loading
- Packing
- Repacking
- Repackaging goods from damaged containers
- Reloading goods for shipment
- Shipping
- Sorting
- Storage
- Tiering (placing goods in a series of rows one above the other)
- Unloading
- Weighing.

**Note:** The term "lumper" is sometimes applied to laborers who unload cargo.

Machinery and equipment may include, but is not limited to:

- Boom trucks
- Compressors
- Hand trucks
- Hand tools
- Forklifts
- Mobile or overhead-track cranes
- Pallet jacks.

**Special note:** Hours cannot be split between 1102 and 2002. Classification 2002 excludes workers engaged in the following activities:

- All hours for workers who also drive transport vehicles for hauling freight to or from the freight handling facility must be reported in classification 1102.
- All hours for workers who sometimes ride along with drivers, to assist in loading or unloading freight at a customer's location, must be reported in classification 1102.

**Excluded operations:** Classification 2002 excludes:

- Businesses primarily storing goods belonging to others in warehouses for periods of time, which are classified in 2102.

- Firms handling their own goods. Handling of goods owned by your employer is a general inclusion, and is classified according to the nature of the employer's business.

- Trucking firms that only ship and handle freight at customers' locations and do not own or lease a separate facility for freight handling, which are classified in 1102.

**Special notes:**

- For rules on assigning and reporting in more than one basic classification, see WAC 296-17-31017 Multiple classifications.

- Freight handling operations performed in connection with the loading or unloading of vessels or rail lines on piers or adjoining areas may be subject to coverage under the U.S. Longshore and Harbor Workers Act. Care should be exercised prior to the assignment of this classification to determine proper jurisdiction.

For administrative purposes, classification 2002 is divided into the following subclassification(s):  
**2002-13 Freight handling services, N.O.C.**

This subclassification also applies to moving, uncrating, and assembly of modular work stations or other types of office furniture.

**2002-31 Loading, unloading, or icing refrigeration cars and containers**

**Note:** Icing the refrigeration systems by adding water, ammonia, or other additives to maintain the cold temperatures.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

**WAC 296-17A-3905 Classification 3905.**

**3905-00 Restaurants, N.O.C.**

Applies to establishments engaged in restaurant operations not covered by another classification (N.O.C.). These establishments are "traditional, family or full service" restaurants that provide sit-down services, or cafeteria or buffet style meals. This classification includes the preparation and service of food and beverages. Establishments in this classification may serve beer and wine including on premises consumption of beer from microbrewery operations in connection with the restaurant; however, they are prohibited from selling spirits or hard liquor. Typical occupations include, but are not limited to, hostesses, wait staff and assistants, cooks, dishwashers, cashiers, and managerial staff. This classification also includes the preparation of "take-out food" that customers pick up directly from the restaurant for consumption away from the premises and the operation of a card room in conjunction with the restaurant.

This classification excludes establishments engaged in operating restaurants or lounges that sell spirits or hard liquor which are to be reported separately in classification 3905-07, and catering services that are not part of the restaurant operation which are to be reported separately in classification 3909.

**Special note:** Traditional, family or full service restaurants are establishments where wait persons bring customers

a menu, take orders, and deliver prepared meals to the customer's table or where customers choose from a variety of food items from a buffet or cafeteria style service. Such establishments will generally use nondisposable eating utensils and plates to serve food as opposed to throw away paper plates and plastic eating utensils. Includes establishments where orders are placed at the counter, and the food or drink is delivered to your table. Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a restaurant are to be reported separately in classification 6605.

### **3905-01 Food, drink, and candy vendors or concessionaires**

Applies to street vendors and businesses engaged in operating food, drink or candy concessions at places such as, but not limited to, ball parks, race tracks, theaters and exhibitions. This classification is applicable only to concession operations which are operated independently from the facility or event at which the concession service is being provided. These independent vendors selling food items are not employees of the facility or site where the event or exhibition is taking place. Vendors subject to this classification sell a variety of food, snack and beverage items from booths, mobile push carts, mobile stands, carrying boxes, or trays.

This classification excludes food and beverage operations (concession stands) operated in connection with an event or facility by employees of the event sponsor or facility operator which are to be reported separately in the classification applicable to the event or exhibition; vendors and route food services, operating in a truck or van moving from place to place throughout the day, which are to be reported separately in classification 1101; vendors of nonfood items which are to be reported separately in the applicable classification; and vending machine service companies that replenish food, snack and beverage products which are to be reported separately in classification 0606.

### **3905-03 Commissaries and restaurants with construction, erection, logging or mine operations**

Applies to commissary or restaurant operations conducted *exclusively* in connection with a construction, erection, logging or mining camp operation. This classification is limited to food preparation services provided at a camp site or at a mess hall used to feed employees of the construction, logging, erection, or mining company. The foods prepared and served are not intended for, or offered to, the general public.

**Special note:** The purpose of this classification is to provide employees engaged in the food preparation activity with a classification representative of the work being performed, even though such activities may be occurring at or adjacent to the construction, logging, erection or mining site as provided for in the general reporting rule covering general inclusions.

### **3905-04 Eating establishments, N.O.C. such as public lunch counters in stores**

Applies to establishments not covered by another classification (N.O.C.) engaged in operating lunch counters and restaurants within a retail store location. Use of this classification

is limited to employees of an employer who also operates the retail store where the food service is located.

### **3905-06 Taverns**

Applies to establishments engaged in the operation of a tavern. A tavern is primarily engaged in the sale of beer, wine, and alcoholic beverages for on-premises consumption, and may also provide a variety of foods ranging from peanuts and pretzels to hot food dishes. Typical occupations include, but are not limited to, bartenders, wait staff and assistants, cooks, dishwashers, and managerial staff. Beer may also be sold by the keg with the rental of necessary taps and pumps. This classification includes the operation of a "beer garden" at special events such as, but not limited to, fairs or race meets, and the operation of a card room in connection with the tavern.

**Special note:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a tavern must be reported separately in classification 6605.

### **3905-07 Restaurants serving spirits or hard liquor**

Applies to establishments engaged in the operation of a restaurant having a license to sell spirits or hard liquor, beer and wine in connection with their food preparation and service. This classification includes the preparation and service of food and beverages at sit down restaurants and lounges including on premises consumption of beer from microbrewery operations in connection with the restaurant. Such establishments have extensive cooking facilities and equipment to prepare full meals. Typical occupations covered by this classification include, but are not limited to, bartenders, hostesses, wait staff and assistants, valet parking attendants, cooks, busboys, dishwashers, cashiers, and managerial staff. This classification also includes the preparation of "take-out food" that customers pick up directly from the restaurant for consumption away from the premises and the operation of a card room in connection with the restaurant.

This classification excludes establishments engaged as a restaurant without a license to sell spirits or hard liquor which are to be reported separately in classification 3905-00; taverns which are to be reported separately in classification 3905-06; catering services which are not part of a restaurant operation which are to be reported separately in classification 3909; musicians who are to be reported separately in classification 6605; and entertainers such as dancers who are to be reported separately in classification 6620.

**Special note:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as independent contractors. Musicians or entertainers who are considered to be employees of a restaurant must be reported separately in classification 6605.

### **3905-08 Pizza parlors**

Applies to establishments engaged in operating a pizza parlor or restaurant. Establishments subject to this classification specialize in the preparation and sales of pizza (but may also provide other foods) and beverages such as wine, beer, alcoholic beverages, or soft drinks for on-premises consumption.

tion. Typical occupations include, but are not limited to, hostesses, wait staff and assistants, cooks, dishwasher, cashiers, and managerial staff. This classification also includes establishments that deliver pizza to customers, or where customers can pick up already prepared pizza at the shop, but where no customer seating is provided.

This classification excludes U-bake pizza operations which are to be reported separately in classification 6403.

**Special note:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as independent contractors. Musicians or entertainers who are considered to be employees of a pizza parlor must be reported separately in classification 6605.

### 3905-09 Fast food drive-ins, N.O.C.

Applies to establishments engaged in the operation of fast food drive-ins or restaurants. These establishments serve easily prepared foods quickly and nonalcoholic beverages which can be eaten on the premises or picked up by customers at a counter or a drive through window. Fast food establishments offer a variety of menu items such as, but not limited to, hamburgers, french fries, tacos, sandwiches, fried chicken, hot dogs, fish and chips, smoothies. Such establishments will generally use disposable eating utensils and throw away plates.

This classification excludes street vendors and/or route food services which are to be reported separately in classification 1101 and full service restaurants which are to be reported separately in classification 3905-00.

### 3905-11 Soft drink lounges

Applies to establishments engaged in operating soft drink lounges. These types of establishments may provide entertainment such as dancing for an adult audience or a place where youth under age 21 can dance or listen to music. These lounges do not sell alcoholic beverages. This classification includes the preparation and service of light snacks and hors d'oeuvres, such as chips, peanuts, pretzels or finger sandwiches.

This classification excludes entertainers such as exotic dancers who are to be reported separately in classification 6620; and musicians who are to be reported separately in classification 6605.

**Special note:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as independent contractors. Musicians or entertainers who are considered to be employees of a lounge must be reported separately in classification 6605 or 6620 as applicable.

### 3905-12 Ice cream parlors

Applies to establishments engaged in the operation of an ice cream parlor or frozen yogurt shop. These specialty shops offer a limited menu, usually confined to ice cream and frozen yogurt offered in individual servings, various size containers, and specialty items. Special occasion ice cream cakes may be ordered and picked up at a later date by the customer. These establishments usually provide customer seating.

This classification excludes vendors and/or route food services, operating in a truck or van moving from place to

place throughout the day, which are to be reported separately in classification 1101; and vendors selling ice cream from a booth, push cart, mobile stand or tray which are to be reported separately in classification 3905-01.

### 3905-13 Candy, nut, and popcorn retail stores with on-premises manufacturing

Applies to establishments engaged in operating candy, nut or popcorn stores where some or all the products sold are manufactured on the premises. Establishments in this classification may sell a variety of candies, nuts, or popcorn, or may specialize in one or two products. They may also sell their products in gift wrapped packages.

This classification excludes establishments engaged in selling candy, nuts, or popcorn, *that do not manufacture* any product on the premises, which are to be reported separately in classification 6406; and establishments primarily engaged in the wholesale manufacturing of candy which is to be reported separately in classification 3906.

### 3905-14 Espresso/coffee stands and carts

Applies to vendors operating espresso or coffee stands or carts. Products sold include, but are not limited to, coffee, espresso, lattes, Italian sodas, soft drinks, pastries and pre-packaged items. These types of vendors *do not prepare food*. This classification is distinguishable from retail coffee, tea or spice stores in that coffee stands or carts in classification 3905 sell only ready-to-serve products; they do not sell packaged coffee, tea or spice items.

This classification excludes street vendors and/or route food services which are to be reported separately in classification 1101.

AMENDATORY SECTION (Amending WSR 16-11-082, filed 5/17/16, effective 7/1/16)

### WAC 296-17A-4814 Classification 4814.

#### 4814-00 Farms: Internship program (*to be assigned only by the agricultural specialist*)

Applies to qualified farms engaged in providing an internship program for agricultural education. To qualify, the farm must hold a valid certification from labor and industries to provide an internship program that includes a curriculum of learning modules and supervised participation. The internship program is designed to teach farm interns about farming practices and farm enterprise.

Classification 4814 can only be assigned to those farms which have one of the following classifications assigned to their account as the ((~~governing~~)) principal classification: 4806, 4810, or 4813.

**Special note:** The term "farm intern" applies to those certified to participate in the farm internship program. Intern hours must be reported exclusively in classification 4814. All other farm employees' hours are to be reported separately in the applicable farm classification that applies to the farm operation.

AMENDATORY SECTION (Amending WSR 16-11-082, filed 5/17/16, effective 7/1/16)

**WAC 296-17A-4815 Classification 4815.**

**4815-00 Farms: Internship program (to be assigned only by the agricultural specialist)**

Applies to qualified farms engaged in providing an internship program for agricultural education. To qualify, the farm must hold a valid certification from labor and industries to provide an internship program that includes a curriculum of learning modules and supervised participation. The internship program is designed to teach farm interns about farming practices and farm enterprise.

Classification 4815 can only be assigned to those farms which have one of the following classifications assigned to their account as the ((governing)) principal classification: 4802, 4803, 4805, 4809, 4811, or 4812.

**Special note:** The term "farm intern" applies to those certified to participate in the farm internship program. Intern hours must be reported exclusively in classification 4815. All other farm employees' hours are to be reported separately in the applicable farm classification that applies to the farm operation.

AMENDATORY SECTION (Amending WSR 16-11-082, filed 5/17/16, effective 7/1/16)

**WAC 296-17A-4816 Classification 4816.**

**4816-00 Farms: Internship program (to be assigned only by the agricultural specialist)**

Applies to qualified farms engaged in providing an internship program for agricultural education. To qualify, the farm must hold a valid certification from labor and industries to provide an internship program that includes a curriculum of learning modules and supervised participation. The internship program is designed to teach farm interns about farming practices and farm enterprise.

Classification 4816 can only be assigned to those farms which have one of the following classifications assigned to their account as the ((governing)) principal classification: 4804, 4808, 7301, 7302, or 7307.

**Special note:** The term "farm intern" applies to those certified to participate in the farm internship program. Intern hours must be reported exclusively in classification 4816. All other farm employees' hours are to be reported separately in the applicable farm classification that applies to the farm operation.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

**WAC 296-17A-4904 Classification 4904.**

**Administrative, clerical, reception, and sales staff working in a business office**

Classification 4904 is a standard exception classification, as described in WAC 296-17-31018 Exception classifications, with restrictions on both the type of work and the work place. If any of a worker's duties are excluded from

4904 because of restrictions described in this rule, then none of the worker's hours may be reported in Classification 4904.

**Special note:** Care must be taken:

- To look beyond job titles, such as "clerk" or "cashier." Job titles do not ensure the work or the workplace meet the requirements for 4904.

- Ensure standard exceptions are permitted - Some basic classifications include office work.

Classification 4904 applies only to employees whose job duties are restricted to a business office, meeting room, or similar office like environment that is:

- Physically separated by walls, partitions, or other physical barriers from all other work areas; and
- Where only office work, as described in this rule, is performed.

Classification 4904 excludes any work area where:

- Products sold by the employer are handled or stored;
- Carry out merchandise is displayed for sale;
- Customers bring merchandise they are purchasing to make payment.

Office work is limited to duties such as:

- Communicating by phone or routing phone calls;
- Programming software;
- Technical drafting;
- Designing publication layouts on hardware or by drafting;

- Maintaining financial, personnel, or payroll records;
- Writing or routing correspondence;
- Billing and receiving payments;
- Preparation of insurance policies or billing records;
- Composing informational material;
- Copying documents;
- Utilizing computer software;
- Manual or computer design work;
- Completing forms;
- Researching records;
- Checking persons into a hotel or other facility;
- Writing reports and manuals;
- Attending meetings;
- Assisting walk-in customers;
- Processing payments and invoices.

Office work excludes:

- Handling, packaging, mailing, receiving, or demonstrating any product (or their components) sold by the employer;
- Hand delivering business correspondence outside of the business office.

**Special notes:**

Classification 4904 permits limited and minimal work outside an office for:

- Banking;
- Taking correspondence to or from the post office;
- Purchasing supplies for the office;
- Taking training courses;
- Attending meetings.

Classification 4904 permits limited and minimal exposure to areas of the employer's premises that do not qualify for office work, if this is necessary for getting to or from a:

- Restroom facility;
- Business office;



- Lunchroom or dining area;
- Break room;
- Delivery of a personal message.

For administrative purposes classification **4904** is divided into the following subclassifications:

**4904-00 Clerical office, N.O.C.**

**4904-13 Clerical office for insurance business**

*Special note:* Individuals issued a license by the office of the insurance commissioner and acting as an insurance producer are exempt from coverage as specified in RCW 51.12.-020(11). To elect voluntary coverage these individuals must submit a completed optional coverage form to the department. This exclusion to coverage does not apply if the license is held by someone who otherwise:

- Does not work in the capacity of an insurance producer; and
- Is not compensated related to the volume of insurance sold or premiums collected; and
- Holds a license solely for the purpose of receiving applications or premiums.

**4904-17 Clerical office: Employee leasing companies**

**4904-20 Community action organizations - Clerical office employees, N.O.C.**

Applies to the clerical office employees, not otherwise classified (N.O.C.), of organizations performing ~~((an array of))~~ two or more services to support the local community and ~~((citizens))~~ people in need. See subclassifications 1501-20 and 5308-20 for other community action organization classifications.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

**WAC 296-17A-5308 Classification 5308.**

**5308-20 Community action organizations - Professional services and administrative employees, N.O.C.**

Applies to organizations performing ~~((an array of))~~ two or more services to support the local community and ~~((citizens))~~ people in need.

This classification applies to professional services and administrative employees who are not otherwise classified (N.O.C.). Work duties in this classification are not performed exclusively in an administrative office environment. Travel may be necessary to perform work at an alternate worksite for appointments with clients or patients, meetings, presentations, agency promotions, or other required out-of-office administrative type work. Work performed in this classification may include, but is not limited to:

- Child care or teaching;
- Counseling or educating for various programs;
- Estimating and project managing when staff performing these duties do not supervise a work crew or perform any type of manual labor;
- Medical, dental and nursing services;
- Program coordinating and directing.

The services provided by community action organizations include:

- After school care;
- Alternative schools;

- Child care;

Counseling and assistance;

• Decent, safe and sanitary living accommodations for low-income or needy ~~((citizens))~~ people;

- Drug and alcohol recovery programs;

• Employment or independence training~~((counseling and assistance));~~

- Food and clothing banks;

- In-home chore services;

- Meals;

- Medical services;

- Transitional or emergency housing;

- Weatherization.

~~((This classification applies to professional services and administrative employees. Work duties in this classification are not performed exclusively in an administrative office environment. Travel may be necessary to perform work at an alternate work site for appointments with clients, patients, meetings, presentations, agency promotions, or other required out-of-office administrative type work. Work performed in this classification may include, but is not limited to:~~

- ~~• Child care professionals or teachers;~~

- ~~• Counselors or educators for various programs;~~

~~• Estimators and project managers who do not supervise a work crew or perform any type of labor;~~

- ~~• Medical, dental and nursing services;~~

- ~~• Program coordinators and directors.~~

~~Excluded from this risk classification is any manual labor or supervision of a work crew that performs manual labor, construction or maintenance work, work in a food bank, delivery, or other similar work which is to be reported in risk classification 1501-20; chore workers/home service workers who are to be reported in 6511-20; office employees who work exclusively in an administrative office environment who are to be reported in risk classification 4904-20; housing authorities which are to be reported in 1501-01 and 5306-26; welfare special works programs which are to be reported in 6505; work activity centers which are to be reported in 7309; and volunteers who are to be reported in risk classification 6901.~~

~~See classifications 1501-20 and 4904-20 for other community action operations.~~

~~*Note:* Businesses providing one of the services described in this class are to be assigned the classification applicable to the service provided. If all conditions of the general reporting rules have been met, standard exception classifications may apply.))~~ Excluded from this classification are:

• The following activities, which are to be reported in 1501-20:

- Any manual labor;

- Supervision of a work crew that performs manual labor;

- Work in a food bank;

- Delivery;

- Other similar work.

• Construction or maintenance work. Normal maintenance and repair contemplated by this classification includes, but is not limited to, replacing parts on existing fixtures or equipment, repairing existing structures, normal cleaning or

janitorial activities, maintaining existing landscaping, and shoveling snow from driveways or walkways. Construction, alteration, or improvements to the properties are not considered normal maintenance and are not contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the community action organization. New construction or major alterations such as the construction of new additions or the construction of new structures are excluded from this classification and are to be reported separately in the appropriate construction classifications:

• Chore workers/home service workers, who are to be reported in 6511-20;

• Office employees who work exclusively in an administrative office environment, who are to be reported in 4904-20;

• Individuals employed in welfare special works programs, which are to be reported in 6505;

• Individuals employed in work activity centers, who are to be reported in 7309; and

• Volunteers, who are to be reported in 6901 when medical aid coverage has been elected.

See classifications 1501-20, 4904-20, and 6511-20 for other community action operations.

**Excluded operations:** Firms engaged as housing authorities, which are reported in 1501-01 and 5306-26.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

#### **WAC 296-17A-6511 Classification 6511.**

##### **Chore services/home care assistants**

###### **Applies to:**

Entities providing chore services/home care assistants to private individuals.

**Chore services performed by the chore workers/home care assistants include**, but are not limited to:

- General household chores;
- Meal planning and preparation;
- Shopping and errands, either with or without the client;
- Personal care, such as bathing, body care, dressing, and help with ambulating;
- Companionship.

**Note:** Some common terms to describe these types of services include supported living, tenant support, and intensive tenant support services.

###### **Also included in this classification are:**

- Supervising visits between children and parents, including transporting the child;
- Packing up senior homes;
- Organizing homes prior to customers putting a home on the market;
- Organizing homes prior to customers having an estate auction;
- Pet sitting;
- House sitting.

###### **Excluded activities in this classification:**

- Firms involved in organizing homes and also conducting estate auctions (report in 6603).

- Social workers and dieticians employed by home health care service establishments (report in 6303-21). Workers in classification 6303-21 are teaching people living with physical or developmental disabilities living in their own home to manage daily living skills such as caring for themselves, dressing, cooking, etc. Workers in classification 6511 are performing this work as a service to individuals.

- Individuals working under a welfare special works training program (report in classification 6505).

- Residential cleaning or janitorial services (report in classification 6602).

- Skilled or semi-skilled nursing care (report in classification 6110).

- Home health care providers covered under the Washington state home care referral registry (report in classification 6512).

- Household furnishings moving and storage (report in classification 6907).

- Staging services (report in classification 0607).

- Any construction related work. Example: If a business builds shelving as part of organizing homeowner's personal belongings, this employer would not be eligible to report in classification 6511.

For administrative purposes, classification **6511** is divided into the following subclassification(s):

##### **6511-00 Chore services/home care assistants**

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

Applies to organizations providing two or more services to support the local community and people in need. See subclassifications 1501-20, 4904-20, and 5308-20 for other community action organization classifications. If the entity provides only chore services, then 6511-00 applies.

AMENDATORY SECTION (Amending WSR 16-18-085, filed 9/6/16, effective 10/7/16)

#### **WAC 296-17A-6906 Classification 6906.**

##### **Volunteer law enforcement officers**

Applies to medical aid coverage for volunteer law enforcement officers of cities, towns, counties, taxing districts, Native American tribal councils, and state agencies for whom these entities have elected coverage for medical aid only. Duties of law enforcement officers include, but are not limited to:

- Directing traffic;
- Patrolling by motor vehicle, motorcycle, bicycle, on foot or horseback;
- Preventing crimes;
- Investigating disturbances of the peace;
- Arresting violators;
- Conducting criminal investigations;
- Giving first aid;
- Guarding persons detained at the police station; and
- Other similar activity conducted within the course of official duties.

This classification excludes:

- Salaried law enforcement officers;

- Volunteer law enforcement officers for whom the cities, towns, counties, taxing districts or Native American tribal councils have elected full coverage, who are to be reported separately in classification 6905;

- Volunteer law enforcement officers for whom the state agencies have elected full coverage who are to be reported separately in classification 7103;

- Student volunteers and/or unpaid students as defined in chapter 51.12 RCW for whom the cities, towns, counties, taxing districts, or Native American tribal councils have elected medical aid coverage, or for whom state agencies must provide coverage, who are to be reported separately in classification 6901.

For other operations of cities, towns, counties, taxing districts, or state government, see chapter 296-17A WAC classifications: 0803, 1301, 1501, 1507, 4902, 4906, 5305, 5306, 5307, 6901, 6904, 6905, 7103, and 7201.

**Special note:** This coverage is required for volunteer law enforcement officers of state agencies. This coverage is optional for volunteer law enforcement officers of cities, towns, counties, taxing districts, and Native American tribal councils(~~(, and state agencies)~~); to elect coverage for volunteer law enforcement officers, the city, town, county, taxing district, or Native American tribal council(~~(, or state agency)~~) must submit a completed Application for Elective Coverage of Excluded Employments to the department. Conditions of coverage are outlined on the application. If coverage is provided, all law enforcement officers must be included. See relevant rules, including WAC 296-17-925, 296-17-930, 296-17-935, and 296-17-35201 for reporting instructions and recordkeeping requirements.

For administrative purposes, classification **6906** is divided into the following subclassifications:

**6906-00 Volunteer law enforcement officers of cities and towns - Medical aid only**

**6906-01 Volunteer law enforcement officers of counties, taxing districts and Native American tribal councils - Medical aid only**

**6906-02 Volunteer law enforcement officers of state agencies - Medical aid only**

### WSR 17-07-110

#### PROPOSED RULES

#### DEPARTMENT OF HEALTH

[Filed March 21, 2017, 11:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-16-097.

Title of Rule and Other Identifying Information: Chapter 246-809 WAC, Licensure for mental health counselors, marriage and family therapists, and social workers, the department is proposing to update requirements regarding continuing education, training in suicide assessment, and other licensing standards. The proposal also makes clarifications and technical changes accordingly.

Hearing Location(s): Department of Health, Town Center Building #2, Room 145, 111 Israel Road S.E., Tumwater, WA 98501, on April 27, 2017, at 1:00 p.m.

Date of Intended Adoption: May 4, 2017.

Submit Written Comments to: Brad Burnham, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by April 27, 2017.

Assistance for Persons with Disabilities: Contact Brad Burnham by April 21, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal would establish requirements implementing recent changes to chapter 18.225 RCW and RCW 43.70.442. It would reiterate the statutory requirement of social workers at the associate level to receive training and continuing education in suicide prevention, as well as the statutory requirement that, by July 2017, any continuing education in suicide for any profession must be selected from the model list developed by the department. Continuing education hours required for a "retired-active" credential would be reduced from thirty-six hours to eighteen hours. The proposal also clarifies existing terms and conditions, and makes general housekeeping changes as needed.

Reasons Supporting Proposal: State statute and this proposal are in response to the serious public health issue of suicide. Suicide is the second leading cause of death in our youth and young adults (ages ten to thirty-four). There are nearly twice as many suicides as homicides of youth ages ten to twenty-four. Two of the strongest predictors of suicide are mental illness and substance abuse. Other changes would make the rules consistent with chapter 18.225 RCW and provide greater clarity for licensees regarding existing requirements.

Statutory Authority for Adoption: RCW 18.225.040.

Statute Being Implemented: Chapter 18.225 RCW and RCW 43.70.442.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brad Burnham, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4912.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Brad Burnham, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4912, fax (360) 236-2901, email [brad.burnham@doh.wa.gov](mailto:brad.burnham@doh.wa.gov).

March 21, 2017

John Wiesman Dr. PH, MPH  
Secretary

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Associate" means a prelicensure candidate who is working towards full licensure in their profession, has a graduate degree in a mental health field under RCW 18.225.090 and is gaining the supervision and supervised experience necessary to become a licensed independent clinical social worker, a licensed advanced social worker, a licensed mental health counselor, or a licensed marriage and family therapist. Associates may not independently provide social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise. Associates must work under the supervision of an approved supervisor.

(2) "Independent social work, mental health counseling, or marriage and family therapy" means the practice of these disciplines without being under the supervision of an approved supervisor.

(3) "Licensed counselor" means a licensed marriage and family therapist, licensed mental health counselor, licensed advanced social worker, or licensed independent clinical social worker regulated under chapter 18.225 RCW.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-035 Recordkeeping and retention.** (1) The licensed counselor or associate providing professional services to a client or providing services billed to a third-party payor, must document services, except as provided in subsection (2) of this section. The documentation includes:

(a) The following business information:  
 (i) Client name;  
 ((b)) (ii) The fee arrangement and record of payments;  
 ((c)) (iii) Dates counseling was received;  
 ((d)) (iv) Disclosure ((form)) statement, signed and dated by licensed counselor and client or associate and client((;

((e)) on or before the initial session.

(b) The following treatment information:

(i) The presenting problem(s), purpose or diagnosis;  
 ((f)) (ii) Notation and results of formal consults, including information obtained from other persons or agencies through a release of information;

((g)) (iii) Progress notes sufficient to support responsible clinical practice for the type of theoretical orientation/therapy the licensed counselor or associate uses((-); and

(iv) The associate must also provide ((adequate)) all relevant information about their clinical work to the approved supervisor. This ((can be in the form of progress)) includes session notes, case discussions/analysis, or reports from collaborating professionals. The approved supervisor must have ((an)) a thorough understanding of the clinical work that the associate is doing.

(2) If a client being treated by the licensed counselor requests in writing that no treatment records be kept, and the licensed counselor ((or associate)) agrees to the request, ((the request must be in writing and)) then the licensed counselor

((or associate)) must retain only the following documentation:

(a) The following business information:

(i) Client name;

((b)) (ii) The fee arrangement and record of payments;

((c)) (iii) Dates counseling was received; and

((d)) (iv) Disclosure ((form)) statement, signed and dated by licensed counselor or associate and client((;

((e)) Written request that no records be kept).

(b) The client's written request that no treatment records be kept.

(3) The licensed counselor ((or associate may)) shall not agree to the request if maintaining client records is required by other state or federal law.

(4) The licensed counselor or associate or the associate's supervisor must keep all client records for a period of five years following the last visit. Within this five-year period, all records must be maintained safely, with properly limited access.

(5) The licensed counselor or associate or the associate's supervisor ((must)) shall make provisions for retaining or transferring records in the event of going out of business, death or incapacitation. These provisions may be made in the practitioner's will, an office policy, or by ensuring another licensed counselor is available to review records with a client and recommend a course of action; or other appropriate means as determined by the licensed counselor or associate.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-040 Reporting of suspected abuse or neglect of a child or vulnerable adult.** As required by chapter 26.44 RCW, all licensed counselors and associates ((must)) shall immediately report abuse or neglect of a child if the counselor has reasonable cause to believe that an incident has occurred.

As required by chapter 74.34 RCW, all licensed counselors and associates must report suspected abandonment, abuse, neglect, or financial exploitation of a vulnerable adult, when there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect has occurred.

((The counselor or associate shall report to the local law enforcement agency or to the department of social and health services at the first opportunity, but no longer than twenty-four hours after deciding there is reasonable cause to believe that the child or vulnerable adult has suffered abandonment, abuse, neglect, or financial exploitation.))

The associate will inform their approved supervisor of their filing any report made ((by the associate)) pursuant to this section.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-049 Sexual misconduct.** (1) The definitions and prohibitions on sexual misconduct described in ((chapter 246-16)) WAC 246-16-100 apply to licensed counselors and associates ((except WAC 246-16-100 (3) and (4))).

(2) A licensed counselor or associate shall never engage, or attempt to engage, in the activities listed in WAC 246-16-

100 (1) ~~((with a former patient, former client or former key party)) and (2).~~

AMENDATORY SECTION (Amending WSR 06-09-032, filed 4/12/06, effective 5/13/06)

**WAC 246-809-060 Mandatory reporting.** ~~((+))~~ All reports required by this chapter shall be submitted to the department as ~~((soon as possible))~~ required by chapter 246-16 WAC, but no later than twenty days after a determination is made.

~~((2) Reports made in accordance with WAC 246-809-061, 246-809-062, 246-809-063, and 246-809-064 should contain the following information if known:~~

~~(a) The name, address, and telephone number of the person making the report.~~

~~(b) The name, address, and telephone number of the licensed counselor being reported.~~

~~(c) The case number of any client or patient whose treatment is a subject of the report.~~

~~(d) A brief description or summary of the facts which gave rise to the issuance of the report, including dates of occurrences.~~

~~(e) If court action is involved, the name of the court in which the action is filed along with the date of filing and docket number.~~

~~(f) Any further information which would aid in the evaluation of the report.~~

~~(3) Mandatory reports are exempt from public inspection and copying to the extent permitted under chapter 42.17 RCW.~~

~~(4) A person is immune from civil liability, whether direct or derivative, for providing information to the department under RCW 18.130.070.)~~

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

**WAC 246-809-080 AIDS prevention and information education requirements.** Applicants must complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8. Training courses may be taken any time prior to initial licensure as an associate or a licensed counselor.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-110 Definitions.** The following terms apply to the licensure of marriage and family therapists and marriage and family therapist associates.

(1) "Approved educational program" means:

(a) Any college or university accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or its successor; or

(b) A program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAM-FTE), at the time the applicant completed the required education.

(2) "Approved supervisor" means a licensed marriage and family therapist, or an equally qualified licensed mental health practitioner.

(3) "Equally qualified licensed mental health practitioner" means a licensed mental health counselor, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner, who has completed:

(a) Three hundred clock hours in graduate or postgraduate marriage and family education, or continuing education in marriage and family therapy or supervision by an approved marriage and family therapist supervisor in marriage and family therapy or any combination of these; and

(b) Five years of clinical practice that includes the equivalent of one year of clinical practice working with couples and families.

(4) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(5) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(6) "One-on-one supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

(8) "Supervised experience requirement" means experience that is obtained under an approved supervisor who meets the requirements described in WAC 246-809-134.

~~((8))~~ (9) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a license holder to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-134.

~~((9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.)~~

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-121 Program equivalency.** (1) To meet the program equivalency requirement, an applicant must have course work equivalent to a master's or doctoral degree in ((marriage and family therapy must include graduate level courses in marital and family systems, marital and family therapy, individual development psychopathology, human sexuality, research, professional ethics and law, and supervised clinical practice and electives)) each area of study described in subsection (2) of this section.

(2) A total of forty-five semester credits ~~((and))~~ or sixty quarter credits are required in ~~((at))~~ the nine areas of study as described in this subsection. A minimum of twenty-seven semester credits or thirty-six quarter credits are required in the first five areas of study: Marital and family systems, marital and family therapy, individual development psychopathology, human sexuality, and research. Distribution of the course work is as follows:

~~((+))~~ (a) Marital and family systems. ~~((a))~~ An applicant must have taken ~~((at least two courses))~~ a minimum of

six semester or eight quarter credits in marital and family systems. ~~((Course work required is a minimum of six semester credits or eight quarter credits.~~

~~((b))~~ Marital and family systems is a fundamental introduction to the systems approach to intervention. The student should learn to think in systems terms on a number of levels across a wide variety of family structures, and regarding a diverse range of presenting problems. While the most intense focus may be on the nuclear family (in both its traditional and alternative forms), models should be taught which integrate information regarding the marital, sibling, and individual subsystems, as well as the family of origin and external societal influences. Developmental aspects of family functioning should also be considered of the family system; it also provides a theoretical basis for treatment strategy. Some material may be drawn from familiar sources such as family sociology, but it should be integrated with recent clinically oriented systems concepts. Supplemental studies may include family simulation, the observation of well families, and study of the student's family of origin.

~~((2)) (b)~~ Marital and family therapy. ~~((a))~~ An applicant must have taken ~~((at least two courses))~~ a minimum of six semester or eight quarter credits in marital and family therapy. ~~((Course work required is a minimum of six semester credits or eight quarter credits.~~

~~((b))~~ Marital and family therapy is intended to provide a substantive understanding of the major theories of systems change and the applied practices evolving from each orientation. Major theoretical approaches to be surveyed might include strategic, structural, experiential, neoanalytical (e.g., object relations), communications, and behavioral. Applied studies should consider the range of technique associated with each orientation, as well as a variety of treatment structures, including individual, concurrent, collaborative, conjoint marital, marital group, transgenerational, and network therapies.

~~((3)) (c)~~ Individual development. ~~((a))~~ An applicant must have taken ~~((at least one course))~~ a minimum of two semester credits or three quarter credits in individual development. ~~((Course work required is a minimum of two semester credits or three quarter credits.~~

~~((b))~~ A course in this area is intended to provide a knowledge of individual personality development and its normal and abnormal manifestations. The student should have relevant course work in human development across the life span, and in personality theory. An attempt should be made to integrate this material with systems concepts. Several of the courses in this category may be required as prerequisites for some degree programs.

~~((4)) (d)~~ Psychopathology. ~~((a))~~ An applicant must have taken at least one course in psychopathology. Course work required is a minimum of two semester credits or three quarter credits.

~~((b))~~ Psychopathology is the assessment and diagnosis including familiarity with current diagnostic nomenclature, diagnostic categories and the development of treatment strategies.

~~((5)) (e)~~ Human sexuality. ~~((a))~~ An applicant must have taken at least one course in human sexuality. Course

work required is a minimum of two semester credits or three quarter credits.

~~((b))~~ Human sexuality includes normal psycho-sexual development, sexual functioning ~~((and its)),~~ physiological aspects ~~((and)),~~ sexual dysfunction and its treatment.

~~((6)) (f)~~ Research. ~~((a))~~ An applicant must have taken at least one course in research methods. Course work required is a minimum of three semester credits or four quarter credits.

~~((b))~~ The research area is intended to provide assistance to students in becoming informed consumers of research in the marital and family therapy field. Familiarity with substantive findings, together with the ability to make critical judgments as to the adequacy of research reports, is expected.

~~((7)) (g)~~ Professional ethics and law. ~~((a))~~ An applicant must have taken at least one course in professional ethics and law. Course work required is a minimum of three semester credits or four quarter credits.

~~((b))~~ This area is intended to contribute to the development of a professional attitude and identity. Areas of study will include professional socialization ~~((and)),~~ the role of the professional organization, licensure or certification legislation, legal responsibilities ~~((and)),~~ legal liabilities, ethics and family law, confidentiality, independent practice and inter-professional cooperation.

~~((8)) (h)~~ Electives. ~~((a))~~ An individual must take one course in an elective area. Course work required is a minimum of three semester credits ~~((and))~~ or four quarter credits.

~~((b))~~ This area will vary with different institutions but is intended to provide supplemental and/or specialized supporting areas.

~~((9)) (i)~~ Supervised clinical practice. ~~((a))~~ An applicant may acquire up to nine semester credits or twelve quarter credits through supervised clinical practice in marriage and family therapy under the supervision of a qualified marriage and family therapist as determined by the school.

~~((b) If an)~~ Applicants who completed a master's or doctoral degree program in marriage and family therapy, or a behavioral science master's or doctoral degree with equivalent course work, ~~((prior to))~~ before January 1, 1997 ~~((; and if that degree did not include a supervised clinical practice component, the applicant may substitute the clinical practice component with proof of a minimum of three years postgraduate experience in marriage and family therapy.)),~~ may substitute the supervised clinical practice educational component by documenting a minimum of three years of postgraduate experience in marriage and family therapy. These hours are in addition to the two years supervised postgraduate experience required under ~~((section 9(1), chapter 251, Laws of 2001))~~ RCW 18.225.090.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-130 Supervised postgraduate experience.** The experience requirements for the marriage and family therapist applicant's practice area include successful completion of a supervised experience requirement. The experience requirement consists of a minimum of two calendar

years of full-time marriage and family therapy. ~~((Of the total supervision, one hundred hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner.))~~ Total experience requirements include:

(1) A minimum of three thousand hours of experience ~~((;))~~ that includes one thousand hours of ~~((which must be))~~ direct client contact ~~((;))~~ with at least five hundred hours ~~((must be))~~ gained in diagnosing and treating couples and families; ~~((plus))~~

(2) At least two hundred hours of qualified supervision with an approved supervisor.

(a) Of the two hundred hours, one hundred hours must be with a licensed marriage and family therapist with at least five years of clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner;

(b) At least one hundred of the two hundred hours must be one-on-one supervision ~~((;))~~; and

(c) The remaining hours may be in one-on-one or group supervision.

(3) Applicants who have completed a master's program accredited by the Commission on Accreditation for Marriage and Family Therapy Education of the American Association for Marriage and Family Therapy ~~((may))~~ boards will be credited with five hundred hours of direct client contact and one hundred hours of ~~((formal meetings))~~ qualified supervision with an approved supervisor ~~((;))~~;

(4) Licensed marriage and family therapist associate applicants are not required to have supervised postgraduate experience prior to becoming an associate ~~((;))~~;

(5) Licensed marriage and family therapist associate applicants must declare they are working towards full licensure.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-134 Approved supervisor.** (1) The approved supervisor must hold a license as defined per WAC 246-809-110. The license must be without restrictions ~~((that has))~~ and have been in good standing for ~~((at least))~~ the previous two years.

(2) The approved supervisor must not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has ~~((acted as))~~ provided psychological services to the licensure ~~((candidate's therapist))~~ candidate within the past two years.

(3) Before beginning supervision, the approved supervisor ~~((; prior to the commencement of any supervision;))~~ must provide the licensure candidate with a declaration ~~((;))~~ stating that the supervisor has met the requirements of this section and qualifies as an approved supervisor. The declaration will be on a form provided by the department ~~((; that the supervisor has met the requirements of WAC 246-809-134 and qualify as an approved supervisor))~~.

(4) The approved supervisor must have completed the following:

(a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

(i) A supervision course; or

(ii) Continuing education credits on supervision; or

(iii) Supervision of supervision; or

(iv) Any combination of these; and

(b) Twenty-five hours of experience in supervision of clinical practice; or

(c) An American Association for Marriage and Family Therapy (AAMFT) approved supervisor meets the qualifications ~~((above))~~ of this subsection.

(5) The approved supervisor must attest to having thorough knowledge of the ~~((supervisee's))~~ licensure candidate's practice activities including:

(a) Practice setting;

(b) Recordkeeping, as outlined in WAC 246-809-035;

(c) Financial management;

(d) Ethics of clinical practice; and

(e) ~~((A))~~ The licensure candidate's backup plan for coverage in times when the licensure candidate is not available to their clients.

(6) Applicants whose supervised postgraduate experience began before September 30, 2006, are exempt from the requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-140 Examination.** ~~((Examination required;))~~ Applicants for full licensure must take and pass the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) examination. The passing score on the examination is established by the testing company in conjunction with the AMFTRB.

AMENDATORY SECTION (Amending WSR 17-02-005, filed 12/22/16, effective 1/22/17)

**WAC 246-809-210 Definitions.** The following definitions apply to the licensure of mental health counselors and mental health counselor associates.

(1) "Approved educational program" means any college or university accredited by an accreditation body recognized by the Council for Higher Education Accreditation (CHEA) or United States Department of Education.

(2) "Approved setting" includes facilities, agencies or private practice where an applicant works with individuals, families, couples or groups under the supervision of an approved supervisor.

(3) "Approved supervisor" means a qualified licensed mental health counselor or equally qualified licensed mental health practitioner who has been licensed without restrictions for at least two years.

(4) "Equally qualified licensed mental health practitioner" means a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner.

(5) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(6) "Immediate supervision" means a meeting with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(8) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

(9) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a licensee to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-234.

~~((9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.))~~

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-220 Education requirements.** (1) To meet the education requirement for licensure as a mental health counselor or mental health counselor associate, an applicant must have a master's or doctoral degree in mental health counseling or a master's or doctoral degree in a behavioral science (~~(master's or doctoral degree in a)~~) field relating to mental health counseling from an approved school. Fields recognized as relating to mental health counseling include counseling, psychology, social work, nursing, education, pastoral counseling, rehabilitation counseling, or social sciences. Any field of study qualifying as related to mental health counseling must satisfy course work equivalency requirements included in WAC 246-809-221. An official transcript must be provided as evidence of fulfillment of the course work required.

(2) Any supplemental course work (~~(required)~~) must be from an approved school.

(3) Applicants who (~~(held)~~) hold a behavioral science master's or doctoral degree (~~(and are completing)~~) in a related field may complete supplemental course work through an approved (~~(school)~~) educational program to satisfy any missing program equivalencies (~~(may count any)~~). Postgraduate experience hours acquired concurrently with the additional course work counts toward the supervised postgraduate experience under WAC 246-809-230.

(4) A person who is a Nationally Certified Counselor (NCC) or a Certified Clinical Mental Health Counselor (CCMHC) through the National Board of Certified Counselors (NBCC) is considered to have met the education requirements of this chapter. Verification must be (~~(sent directly to)~~) received by the department directly from NBCC.

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

**WAC 246-809-221 Behavioral sciences—Program equivalency.** (1) Behavioral science in a field relating to mental health counseling includes a core of study relating to counseling theory and counseling philosophy.

(2) Either a counseling practicum, or a counseling internship, or both, must be included in the core of study. Exclusive use of an internship or practicum used for qualification must have incorporated supervised direct client contact.

(3) This core of study must include seven of the content areas (~~(from the entire list in subsections (1) through (17) of this section, five of which)~~) listed in (a) through (q) of this subsection. Five of the content areas must be from (~~(content areas in subsections (1) through (8))~~) (a) through (h) of this subsection:

~~((1))~~ (a) Assessment/diagnosis.

~~((2))~~ (b) Ethics/law.

~~((3))~~ (c) Counseling individuals.

~~((4))~~ (d) Counseling groups.

~~((5))~~ (e) Counseling couples and families.

~~((6))~~ (f) Developmental psychology (may be child, adolescent, adult or life span).

~~((7))~~ (g) Psychopathology/abnormal psychology.

~~((8))~~ (h) Research and evaluation.

~~((9))~~ (i) Career development counseling.

~~((10))~~ (j) Multicultural concerns.

~~((11))~~ (k) Substance/chemical abuse.

~~((12))~~ (l) Physiological psychology.

~~((13))~~ (m) Organizational psychology.

~~((14))~~ (n) Mental health consultation.

~~((15))~~ (o) Developmentally disabled persons.

~~((16))~~ (p) Abusive relationships.

~~((17))~~ (q) Chronically mentally ill.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-230 Supervised postgraduate experience.** (1) The experience requirements for the mental health counselor applicant's practice area include successful completion of a supervised experience requirement. The experience requirement consists of a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner in an approved setting. Of the three thousand hours (~~(of required experience includes a minimum of)~~):

(a) One hundred hours spent in immediate supervision with the qualified licensed mental health counselor or equally qualified licensed mental health practitioner (~~(, and includes a minimum of)~~); and

(b) At least one thousand two hundred hours (~~(of)~~) must be direct counseling with individuals, couples, families, or groups.

(2) Applicants who have completed a master's or doctoral program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) will be credited with fifty hours of postgraduate supervision and five hundred hours of postgraduate experience.

(3) Applicants for licensed mental health counselor associate are not required to have supervised postgraduate experience prior to becoming an associate.

(4) Licensed mental health counselor associate applicants must declare they are working toward full licensure.



AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-234 Approved supervisor.** (1) The approved supervisor must hold a license as defined in WAC 246-809-210. The supervisor must be licensed without restrictions (~~(that has)~~) and have been in good standing for ~~((at least))~~ the previous two years.

(2) The approved supervisor must not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has ~~((acted as))~~ provided psychological services to the licensure ~~((candidate's therapist))~~ candidate within the past two years.

(3) Before beginning supervision, the approved supervisor ~~((, prior to the commencement of any supervision,))~~ must provide the licensure candidate a declaration ~~((, on a form provided by the department,))~~ stating that the supervisor has met the requirements of WAC 246-809-234 and ~~((qualify))~~ qualifies as an approved supervisor. The declaration must be on a form provided by the department.

(4) The approved supervisor must have completed the following:

(a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

- (i) A supervision course; or
- (ii) Continuing education credits on supervision; or
- (iii) Supervision of supervision; and

(b) Twenty-five hours of experience in supervision of clinical practice.

(5) The approved supervisor shall ~~((have full))~~ attest to having thorough knowledge of the licensure candidate's practice activities including:

- (a) Recordkeeping, as outlined in WAC 246-809-035;
- (b) Financial management;
- (c) Ethics of clinical practice;
- (d) Practice setting; and

~~((e))~~ (e) The licensure candidate's backup plan for coverage in times when the licensure candidate is not available to their clients.

(6) Applicants whose supervised postgraduate experience began before September 30, 2006, are exempt from the requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-240 Examination for licensed mental health counselors.** (1) Applicants for licensure as a mental health counselor must pass an examination administered by the National Board of Certified Counselors (NBCC). Applicants who pass the National Certification Examination (NCE) or the National Clinical Mental Health Counselor Examination (NCMHCE), as administered by the NBCC, meet the examination requirements to be licensed as mental health counselors. ~~((Each applicant must cause the NBCC to send verification of the applicant's examination passage directly to))~~ The department of health must receive passing exam results directly from NBCC before licensure can be granted.

(2) The department of health shall accept the passing score established by the NBCC for licensed mental health counselor examinations.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-310 Definitions.** The following definitions apply to the licensure of independent clinical and advanced social workers and independent clinical and advanced social work associates.

(1) "Approved educational program" means a master's or doctoral educational program in social work accredited by the Council on Social Work Education.

(2) "Approved supervisor" means a licensed independent clinical social worker (LICSW), licensed advanced social worker (LASW) (for LASWs only), or an equally qualified licensed mental health practitioner.

(3) "Equally qualified licensed mental health practitioner" means a licensed mental health counselor, licensed marriage and family therapist, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner.

(4) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(5) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(6) "Nationally recognized standards" means the *Educational Policy and Accreditation Standards*, revised October 2004 published by the Council on Social Work Education revised October 2004 or any future revisions.

(7) "One-on-one supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and one licensure candidate.

(8) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

(9) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a licensee to become an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-334.

~~((9))~~ "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.)

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-320 Education requirements** ~~((and supervised postgraduate experience)).~~ ~~((1))~~ The following are the education requirements for the social worker applicant's practice area:

~~((a))~~ (1) Licensed advanced social worker or licensed social worker associate-advanced ~~((Graduation))~~ must have graduated from a master's or doctoral social work educational program accredited by the Council on Social Work Education ~~((and approved by the secretary based upon nationally recognized standards)).~~

~~((b))~~ (2) Licensed independent clinical social worker or licensed social worker associate-independent clinical ~~((Graduation))~~ must have graduated from a master's or doctor-

ate level social work educational program accredited by the Council on Social Work Education ((and approved by the secretary based upon nationally recognized standards.

(2) The following are the supervised postgraduate experience requirements for the social worker applicant's practice area:

~~(a) Licensed advanced social worker. Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of three thousand two hundred hours with ninety hours of supervision by a licensed independent clinical social worker or a licensed advanced social worker who has been licensed or certified for at least two years. Of those hours, fifty hours must include direct supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be with an equally qualified licensed mental health practitioner. Forty hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision. Distance supervision is limited to forty supervision hours. Eight hundred hours must be in direct client contact.~~

~~(b) Licensed independent clinical social worker. Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of four thousand hours of experience, of which one thousand hours must be direct client contact, over a three-year period supervised by a licensed independent clinical social worker, with supervision of at least one hundred thirty hours by a licensed mental health practitioner. Of the total supervision, seventy hours must be with an independent clinical social worker; the other sixty hours may be with an equally qualified licensed mental health practitioner. Sixty hours must be in one-to-one supervision and seventy hours may be in one-to-one supervision or group supervision. Distance supervision is limited to sixty supervision hours.~~

~~(3) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants are not required to have supervised postgraduate experience prior to becoming an associate.~~

~~(4) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants must declare they are working toward full licensure).~~

#### NEW SECTION

**WAC 246-809-330 Supervised postgraduate experience requirements.** (1) Licensed advanced social worker. The supervised experience requirement consists of a minimum of three thousand two hundred hours with ninety hours of supervision by a licensed independent clinical social worker or a licensed advanced social worker who has been licensed or certified for at least two years. Of those hours:

- (a) Eight hundred hours must be in direct client contact;
- (b) Ninety hours must be in direct supervision as follows:

- (i) Fifty hours must include direct supervision by a licensed advanced social worker or licensed independent clinical social worker; these hours may be in one-to-one supervision or group supervision;

- (ii) Forty hours may be with an equally qualified licensed mental health practitioner as defined in WAC 246-809-310(3). These hours must be in one-to-one supervision.

- (c) Distance supervision is limited to forty supervision hours.

(2) Licensed independent clinical social worker: The experience requirement consists of a minimum of four thousand hours of experience, over a period of not less than three years. Of those four thousand hours:

- (a) One thousand hours must be direct client contact supervised by a licensed independent clinical social worker;

- (b) One hundred thirty hours of direct supervision as follows:

- (i) Seventy hours must be with an independent clinical social worker;

- (ii) Sixty hours may be with an equally qualified licensed mental health practitioner as defined in WAC 246-809-310(3);

- (iii) Sixty hours of the one hundred thirty hours of direct supervision must be in one-to-one supervision. The remaining seventy hours may be in one-to-one supervision or group supervision; and

- (iv) Distance supervision is limited to sixty supervision hours.

(3) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants are not required to have supervised postgraduate experience prior to becoming an associate.

(4) Licensed social worker associate-advanced and licensed social worker associate-independent clinical applicants must declare they are working toward full licensure.

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-334 Approved supervisor standards and responsibilities.** (1) The approved supervisor must hold a license as defined in WAC 246-809-310. The license is without restrictions ((that)) and has been active and in good standing for ((at least)) the previous two years.

(2) The approved supervisor must not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has acted as the licensure candidate's therapist within the past two years.

(3) Before beginning supervision, the approved supervisor ((, prior to the commencement of any supervision,)) must provide the licensure candidate with a declaration ((, on a form provided by the department,)) that the supervisor has met the requirements of WAC 246-809-334 and ((qualify)) qualifies as an approved supervisor. The declaration must be on a form provided by the department.

(4) The approved supervisor must have completed the following:

- (a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

- (i) A supervision course; or
- (ii) Continuing education credits on supervision; ((or))
- (iii) Supervision of supervision; and

- (b) Twenty-five hours of experience in supervision of clinical practice; and

(c) Has had two years of clinical experience postlicensure.

(5) The approved supervisor must attest to having thorough knowledge of the licensure candidate's practice activities including:

- (a) Specific practice setting;
- (b) Recordkeeping, as outlined in WAC 246-809-035;
- (c) Financial management;
- (d) Ethics of clinical practice; and

(e) The licensure candidate's backup plan for coverage in times when ~~((he/she))~~ the licensure candidate is not available to their clients.

(6) Licensure candidates whose supervised postgraduate experience began before September 30, 2006, are exempt from the requirements of subsection (4) of this section.

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

**WAC 246-809-340 Examination required.** (1) Either the American Association of State Social Work Board's advanced or clinical examination is approved for use as the state examination for licensure of social workers.

(2) The ~~((passing score established by the testing company is the passing score accepted by the department of health))~~ department accepts the passing scores established by the testing company.

AMENDATORY SECTION (Amending WSR 14-09-102, filed 4/22/14, effective 4/22/14)

**WAC 246-809-600 Professions required to ~~((have))~~ complete continuing education.** Licensed ~~((marriage and family therapists, licensed mental health counselors, and licensed social workers are required to have))~~ counselors must complete continuing education as required in WAC 246-809-630 and 246-809-632.

AMENDATORY SECTION (Amending WSR 14-09-102, filed 4/22/14, effective 4/22/14)

**WAC 246-809-610 Eligible continuing education activities.** (1) The continuing education (CE) program or course for licensed counselors and associates must:

(a) Be relevant to ~~((licensed marriage and family therapists, licensed mental health counselors and licensed social workers and must))~~ the profession; and

(b) Contribute to the advancement, extension and enhancement of ~~((the))~~ their professional competence ~~((of the licensed marriage and family therapist, licensed mental health counselor, and licensed social worker)).~~

(2) Courses or workshops primarily designed to increase practice income or office efficiency are not eligible for CE credit.

~~((4))~~ (3) Acceptable CE courses (including distance learning), seminars, workshops and postgraduate institutes are those which are:

(a) Programs having a featured instructor, speaker(s) or panel approved by an industry-recognized local, state, national, international organization or institution of higher learning; or

(b) Distance learning programs, approved by an industry-recognized local, state, national or international organization or institution of higher learning. These programs must require tests of comprehension upon completion. Distance learning programs are limited to twenty-six hours per reporting period.

~~((2))~~ (4) Training programs sponsored by the agency where a licensed counselor or associate is employed are acceptable ~~((if:~~

~~((a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the licensed marriage and family therapist, licensed mental health counselor and/or the licensed social worker; and~~

~~((b) The training programs))~~ but are limited to twenty-six hours per reporting period.

~~((3))~~ (5) Other learning experience, such as serving on a panel, board or council, community service, research, peer consultation, or publishing articles for professional publications are acceptable ~~((if:~~

~~((a) The experience can be shown to contribute to the advancement, extension and enhancement of the professional competence of the licensed marriage and family therapist, licensed mental health counselor and/or the licensed social worker; and~~

~~((b) The experience is))~~ but are limited to six hours per reporting period.

AMENDATORY SECTION (Amending WSR 14-09-102, filed 4/22/14, effective 4/22/14)

**WAC 246-809-615 Suicide training standards.** (1) ~~((An approved))~~ A licensed counselor must complete training in suicide assessment, treatment, and management ~~((must)).~~ The training must be provided by a single provider and must be at least six hours in length, which may be provided in one or more sessions.

(a) Until July 1, 2017, the training must be approved by an industry-recognized local, state, national, international organizations or institutions of higher learning listed in WAC 246-809-620 or an equivalent organization, educational institution or association which approves training based on observation and experience or best available practices;

(b) ~~((Cover training in suicide assessment, treatment, and management; and~~

~~((e) Be provided by a single provider and must be at least six hours in length, which may be provided in one or more sessions.))~~ Beginning July 1, 2017, the training must be on the department's model list of training programs in suicide assessment, treatment and management. The model list is developed in accordance with rules adopted by the department that establish minimum standards for training programs. The establishment of the model list does not affect the validity of training completed prior to July 1, 2017; and

(c) An associate applying for initial licensure may delay completion of the first training required by this section for six years after initial licensure if he or she can demonstrate successful completion of the training required in (a) or (b) of this subsection no more than six years prior to the application for initial licensure.

(2) A licensed marriage and family therapist, licensed mental health counselor, ~~((☉))~~ licensed social worker, or licensed social worker associate who is a state or local government employee is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

(3) A licensed marriage and family therapist, licensed mental health counselor, ~~((☉))~~ licensed social worker, or licensed social worker associate who is an employee of a community mental health agency licensed under chapter 71.24 RCW or a chemical dependency program certified under chapter 70.96A RCW is exempt from the requirements of this section if he or she receives a total of at least six hours of training in suicide assessment, treatment, and management from his or her employer every six years. For purposes of this subsection, the training may be provided in one six-hour block or may be spread among shorter training sessions at the employer's discretion.

AMENDATORY SECTION (Amending WSR 14-09-102, filed 4/22/14, effective 4/22/14)

**WAC 246-809-630 Continuing education requirements.** (1) An associate must complete eighteen hours of continuing education as required in WAC 246-809-632.

(2) Licensed social worker associate advanced and licensed social worker associate independent clinical must complete six hours of suicide assessment, treatment, and management CE as required in WAC 246-809-632.

(3) A licensed ~~((marriage and family therapist, licensed mental health counselor and licensed social worker))~~ counselor must complete thirty-six hours of continuing education (CE) every two years.

~~((2))~~ (a) At least six of the thirty-six hours must be in professional ethics and law, which may include topics under RCW 18.130.180.

~~((3))~~ (b) Beginning January 1, 2014, at least once every six years a licensed marriage and family therapist, licensed mental health counselor, and licensed social worker must complete at least six hours of training in suicide assessment, treatment, and management.

~~((a))~~ (i) The first training must be completed during the first full CE reporting period after January 1, 2014, or the first full CE period after initial licensure, whichever occurs later.

~~((b))~~ (ii) Beginning July 1, 2017, the training must be selected from the department's model list, as required in WAC 246-809-615.

~~((ii))~~ (iii) The hours spent completing training in suicide assessment, treatment, and management count toward the total thirty-six hours of CE.

~~((e))~~ (iv) An individual applying for initial licensure as a licensed marriage and family therapist, licensed mental health counselor, or licensed social worker on or after January 1, 2014, may delay completion of the first training required for six years after initial licensure if he or she can demonstrate completion of six hours of training in suicide assessment, treatment, and management that:

~~((h))~~ (A) Was completed no more than six years prior to the application for initial licensure; and

~~((i))~~ (B) Meets the qualifications listed in WAC 246-809-615.

NEW SECTION

**WAC 246-809-632 Licensed associate continuing education.** (1) All licensed associates must complete a total of eighteen hours of continuing education (CE) every year in order to renew their license. The CEs must be completed in accordance with this chapter. An associate must attest to completing the CE every year during the renewal.

(2) Professional ethics and law CE for all licensed associates. All licensed associates must include six hours of CE in professional ethics and law every two years. The associates must attest to completing the CE during the second renewal, fourth renewal, and sixth renewal. These six CE hours may be completed anytime within the two-year period before each of these renewals. The six hours may contribute to the total eighteen hours of CE for the year in which the CE was completed.

(3) Suicide assessment, treatment, and management CE only for licensed social worker associate advanced and licensed social worker associate independent clinical. Licensed social worker associate advanced and licensed social worker associate independent clinical must complete six hours of suicide assessment, treatment, and management CE after initial licensure and before the first renewal in accordance with WAC 246-809-615 and 246-809-630.

(a) The licensed social worker associate advanced and licensed social worker associate independent clinical may delay completing the first training if he or she can demonstrate completion of the training no more than six years before gaining their initial license.

(b) The hours spent completing training in suicide assessment, treatment, and management count toward the total eighteen hours of CE.

**Table 1**  
**Continuing Education Requirements by Licensure Renewal Dates**

<b>License Type</b>	<ul style="list-style-type: none"> <li>• Marriage and Family Therapist Associate</li> <li>• Mental Health Counselor Associate</li> </ul>	<ul style="list-style-type: none"> <li>• Social Worker Associate Advanced</li> <li>• Social Worker Associate Independent Clinical</li> </ul>
<b>At Initial Licensure</b>	Not applicable for initial licensure	Not applicable for initial licensure

<b>Between Initial Licensure and First Renewal</b>	18 Hours Total	18 Hours Total • 6 hours in suicide assessment, treatment, and management unless obtained 6 years prior to initial licensure
<b>Between First and Second Renewal</b>	18 Hours Total • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date	18 Hours Total • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date
<b>Between Second and Third Renewal</b>	18 Hours Total	18 Hours Total
<b>Between Third and Fourth Renewal</b>	18 Hours Total • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date	18 Hours Total • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date
<b>Between Fourth and Fifth Renewal</b>	18 Hours Total	18 Hours Total
<b>Between Fifth and Sixth Renewal</b>	18 Hours Total • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date	18 Hours Total • 6 of which must be in professional ethics and law which may be obtained anytime within 2 years before the CE due date

AMENDATORY SECTION (Amending WSR 09-15-039, filed 7/8/09, effective 7/8/09)

**WAC 246-809-710 Required disclosure information.**

(1) The following information shall be provided to each client or patient at the commencement of any program of treatment:

- (a) Name of firm, agency, business, or licensee's practice;
- (b) Licensee's business address and telephone number;
- (c) Washington state license number;
- (d) The licensee's name;
- (e) The methods or treatment modality and therapeutic orientation the licensee uses;
- (f) The licensee's education, and training;
- (g) The course of treatment, when known;
- (h) Billing information, including:
- (i) Client's cost per each treatment session; and
- (ii) Billing practices, including any advance payments and refunds;
- (i) Clients are to be informed that they as individuals have the right to refuse treatment and the right to choose a practitioner and treatment modality which best suits their needs;
- (j) This subsection does not grant (clients) new rights and is not intended to supersede state or federal laws and regulations, or professional standards;
- (k) The licensee must provide department of health contact information to the client so the client may obtain a list of or copy of the acts of unprofessional conduct listed under RCW 18.130.180. Department of health contact information must include the name, address, and telephone number for the health professions complaint process.

(2) Associates must provide each client or patient, during the first professional contact, with a disclosure form disclosing that he or she is an associate under the supervision of an approved supervisor. Associates may not independently provide clinical social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise.

(3) Signatures are required of both the licensee providing the disclosure (~~(information)~~) and the client following a statement that the client (~~(had)~~) has been provided a copy of the required disclosure information and that the client has read and understands the information provided. The date of signature by each party is to be included at the time of signing.

AMENDATORY SECTION (Amending WSR 13-16-034, filed 7/29/13, effective 8/29/13)

**WAC 246-809-730 Retired active credential.** (1) To obtain a retired active license a licensed counselor must comply with chapter 246-12 WAC, Part 5.

(2) A licensed counselor with a retired active license may practice no more than ninety days each year in Washington, or practice only in emergency circumstances such as earthquakes, floods, time of declared war or other states of emergency; and

(3) A licensed counselor with a retired active license must renew yearly on their birthday, and must report (~~(thirty-six))~~ eighteen hours of continuing education including six hours in professional ethics and law as required under WAC 246-809-630 every two years.

**WSR 17-07-113**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Board of Massage)

[Filed March 21, 2017, 2:15 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-15-103.

Title of Rule and Other Identifying Information: Chapter 246-830 WAC, Massage practitioners, the department of health (department) and board of massage (board) are proposing amendments to the chapter to clarify, streamline, and modernize the regulations of licensed massage practitioners in Washington state.

Hearing Location(s): Department of Health, Town Center 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on April 25, 2017, at 10:00 [a.m.]

Date of Intended Adoption: April 25, 2017.

Submit Written Comments to: Megan Maxey, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by April 20, 2017.

Assistance for Persons with Disabilities: Contact Cece Zenker at (360) 236-4633, by April 18, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments are needed to reflect the current best practices of the massage profession in order to protect the health and safety of the people of Washington and comply with state laws. The proposal is also in response to HB 2781 (chapter 53, Laws of 2016) and SHB 2425 (chapter 41, Laws of 2016). HB 2781 directs the board to adopt rules to allow board-approved massage programs the ability to establish transfer programs to accept credits from a nonboard approved program. SHB 2425 changes the term massage practitioner to massage therapist effective July 1, 2017. The proposal also responds to RCW 43.70.041 that requires the department to do a five year rules review process.

Reasons Supporting Proposal: A comprehensive review of the chapter has not been done since its adoption in the early 1990s. Given the number of disciplinary actions incurred by this profession in the last several years, and the need to update regulations to meet current standard of care in the massage industry, the proposed amendments are needed to ensure the health and safety of the public, establish clearer standards of practice and conduct among massage practitioners, and comply with state laws.

Statutory Authority for Adoption: RCW 43.70.041, 18.108.025.

Statute Being Implemented: Chapter 18.108 RCW and RCW 43.70.041.

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

Name of Proponent: Board of massage and department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Megan Maxey, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4945.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05-328. A preliminary cost-benefit analysis may be obtained by contacting Megan Maxey, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4845, fax (360) 236-2901, email [megan.maxey@doh.wa.gov](mailto:megan.maxey@doh.wa.gov).

March 20, 2017  
 John Wiesman, DrPH, MPH  
 Secretary  
 Blake T. Maresh  
 Executive Director

AMENDATORY SECTION (Amending WSR 03-11-033, filed 5/15/03, effective 6/15/03)

**WAC 246-830-005 Definitions.** ~~((For the purpose of administering chapter 18.108 RCW, the following definitions shall apply:~~

(1) "Massage" is as defined in RCW 18.108.010.

(2) "Massage school" is an institution which has the sole purpose of offering training in massage therapy.

(3) "Massage program" is training in massage therapy offered by an academic institution which also offers training in other areas of study. A program is an established area of study offered on a continuing basis.)) The definitions in this section apply throughout the chapter unless the context clearly requires otherwise.

(1) "Animal" means any species normally recognized as treatable by veterinary medicine.

(2) "Animal massage practitioner" means an individual licensed to practice massage therapy under chapter 18.108 RCW with additional education and training in animal massage therapy as required under this chapter and holds the animal massage practitioner endorsement required by RCW 18.108.230.

(3) "Apprentice" means an individual enrolled in an apprenticeship program, and who is held to the same standards as students in massage schools or programs.

(4) "Apprenticeship program" ~~((is defined for the purposes of this chapter as))~~ means education and training in massage administered by an apprenticeship educator and trainer that satisfies the ((educational)) education and training requirements for massage set forth in ((WAC 246-830-430, 246-830-440, and 246-830-450. This training shall be offered by an apprenticeship trainer to no more than three apprentices at one time and shall be completed within two years)) this chapter.

(5) "Apprenticeship educator and trainer" ~~((is defined as))~~ means a massage practitioner licensed ((in the state of Washington with not less than)) under chapter 18.108 RCW with at least five current years of experience in full-time practice.

(6) ~~((("Apprentice" is defined as an individual enrolled in an apprenticeship program, and shall be held to the same standards as students in schools or programs.~~

(7) "Student" means an individual currently enrolled in an approved school, program, or apprenticeship program.

who is practicing massage solely for the purposes of education as is incidental to their current course work and who is not receiving compensation for said practice.

(8) "Direct supervision" means a faculty member is on the premises, is quickly and easily available and the client has been examined by the faculty member at such time as acceptable massage practice requires.

(9) "Animal" means any species normally recognized as treatable by veterinary medicine.

(10) "Large animal" means any species commonly recognized as livestock and exotics. Livestock includes horses, cattle, swine and sheep.

(11) "Small animal" means any species commonly recognized as domesticated. Domesticated includes canine, feline and other small animals.)) "Board" means the Washington state board of massage.

(7) "Breast massage" means the specific and deliberate manipulation of breast tissue. Massage of the surrounding chest and shoulder muscles such as massage of the intercostal, pectoral, or axillary muscles is not considered breast massage. Breast massage is only allowed as authorized by WAC 246-830-555.

(8) "Department" means the Washington state department of health.

(9) "Direct supervision" means supervision by a faculty member who is a clinical supervisor of the massage school or massage program and is on the premises, in the student clinic and is readily available to students and clients or patients.

(10) "Evaluation" means the assessment of soft tissue in order to facilitate decision making regarding effective forms and techniques of massage, and identifying cautions and contraindications to ensure client or patient safety. Evaluation does not mean diagnosis.

(11) "Intraoral massage" means the manipulation or pressure of soft tissue inside the mouth or oral cavity for therapeutic purposes.

(12) "Massage" and "massage therapy" mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, reflexology, Swedish gymnastics or movements, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of thrusting force, nor does it include genital manipulation. See WAC 246-830-550 for additional limitations on massage practice.

(13) "Massage business" means the operation of a business where massages are given.

(14) "Massage practitioner" means an individual licensed as a massage practitioner under chapter 18.108 RCW.

(15) "Massage program" or "program" means education and training in massage therapy approved by the board. A program is an established area of study offered on a continuing basis.

(16) "Massage school" or "school" means an institution which has the sole purpose of offering education and training in massage therapy approved by the board.

(17) "Massage transfer program" means a board approved program that allows massage programs and massage schools to accept credits and clock hours that have not been approved by the board pursuant to WAC 246-830-037.

(18) "Secretary" means the secretary of the department of health or the secretary's designee.

(19) "Student" means an individual currently enrolled in a massage school, massage program or apprenticeship program who is practicing massage solely for the purposes of education and training as part of their current course work and who is not receiving compensation for said practice.

## NEW SECTION

**WAC 246-830-015 Professional title.** In accordance with chapter 18.108 RCW, effective July 1, 2017, all references to "massage practitioner" in this chapter mean "massage therapist." After July 1, 2017, all individuals licensed to practice massage therapy under chapter 18.108 RCW will retain the title of massage practitioner until their next license renewal but will remain subject to the provisions of this chapter.

**AMENDATORY SECTION** (Amending WSR 92-02-018, filed 12/23/91, effective 1/23/92)

**WAC 246-830-020 Applications.** ((Application forms for licensure shall be prepared by the secretary and shall provide for the statement of all information required for the license in question. An applicant shall be required to furnish to the secretary a current photograph of passport size, approximately two inches by two inches, with the original application and satisfactory evidence to establish that all requirements for the license have been fulfilled by the applicant, including the requirement that the applicant be of good moral character and is not in violation of chapter 18.130 RCW.)) (1) An applicant for a massage practitioner license must submit to the department:

(a) A completed application on forms provided by the department;

(b) Proof of successful completion of the required education and training of a massage program on an official transcript or school completion form sent directly from the applicant's school or program;

(c) Proof of successful completion of a board approved examination under WAC 246-830-201;

(d) Proof of successful completion of the Washington state massage jurisprudence examination;

(e) Proof of successful completion of four clock hours of AIDS education as required by chapter 246-12 WAC, Part 8;

(f) Proof of certification in American Red Cross first aid and American Heart Association CPR or the equivalent. CPR training must be in person;

(g) The required nonrefundable application fee in WAC 246-830-990; and

(h) If required by the department, fingerprint cards for a national or state fingerprint based background check pursuant to RCW 18.130.064(2).

(2) The secretary may request additional supporting documentation as necessary.

(3) The secretary will not grant a license under this chapter to any person who has been convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances within the eight years immediately preceding the date of application, except as provided in RCW 9.97.020.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-830-035 Licensing without examination by endorsement.** ~~((1) A license to practice massage shall be issued without examination provided an individual holds a current license to practice massage in another jurisdiction that has examination and education requirements substantially equivalent to those in Washington.~~

~~(2) An individual applying for a license without examination shall submit to the department:~~

~~(a) A completed application on a form provided by the department;~~

~~(b) The required nonrefundable application fee;~~

~~(c) Documentation that the examination and education requirements of the other jurisdiction are substantially equivalent to those in Washington;~~

~~(d) Successful completion of an open book test provided by the department which demonstrates a working knowledge of Washington law as contained in chapters 18.108 and 18.130 RCW, and chapter 246-830 WAC;~~

~~(e) Applicants must complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8;~~

~~(f) Written certification from all jurisdictions in which the applicant has practiced massage verifying that the applicant has a record of good standing and has not been the subject of any disciplinary action.~~

~~(3) Restrictions:~~

~~(a) All applicants shall be subject to the grounds for denial or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160;~~

~~(b) An individual who has failed the Washington state licensing examination shall not be eligible for licensing without examination.~~

~~(4) If application for licensing without examination is denied, the applicant may apply for licensing as set forth in RCW 18.108.070.~~

~~(5) A license issued without examination is subject to an original license fee and all other renewal requirements set forth in this chapter.)~~ (1) A massage practitioner applicant holding a massage license in another state or foreign jurisdiction may be granted a Washington massage license if:

(a) The board determines the other state's or foreign jurisdiction's education and training requirements are substantially equivalent to Washington's. Substantial equivalency means a course of study at a massage school or massage program that requires a minimum of five hundred hours approved by the equivalent licensing agency or agencies in the state or foreign jurisdiction in which it is located at the time of applicant's graduation;

(b) The applicant has a massage license in good standing from the initiating jurisdiction; and

(c) If there is a gap in practice of three or more years immediately prior to applying for a license by endorsement, the applicant must provide documentation of twenty-four hours of hands on delivery of massage therapy services.

(2) If an applicant does not meet the requirements of this section, then the applicant may fulfill the remaining education and training requirements as outlined in WAC 246-830-037.

(3) The applicant must successfully pass one of the following examinations after their graduation date:

(a) Federation of State Massage Therapy Board massage and bodywork licensing examination;

(b) National certification examination for therapeutic massage and bodywork; or

(c) A board-approved examination.

(4) The applicant must satisfy the requirements as in WAC 246-830-020 (1)(a) through (h).

#### NEW SECTION

**WAC 246-830-037 Transfer programs and transfer of prior education and clock hours.** (1) Board approved massage schools or massage programs may operate transfer programs that accept an individual's credits or clock hours from massage schools or massage programs that have not been approved by the board, subject to the following conditions:

(a) The massage school or massage program from where credits or clock hours are being transferred is:

(i) Accredited by a national or regional education accreditation organization;

(ii) Approved by a state authority with responsibility for oversight of educational or vocational programs; or

(iii) Approved by a state agency that regulates massage schools or massage programs and is a member of the federation of state massage therapy boards.

(b) The massage school or massage program from where credits or clock hours are being transferred provides an official transcript;

(c) Courses for which credits or clock hours are granted must be substantially equivalent in content and academic rigor to the courses and clock hours presently offered by the massage school or massage program. In order to determine substantial equivalency, the massage school or massage program will evaluate the courses and clock hours. If clock hours are missing, or require additional credits for the subjects, the massage school or massage program may grant partial credit, as appropriate. Documentation of the massage school's or massage program's decision-making rationale must be maintained in the student's file; and

(d) Documentation of all previous formal education and training applicable to completion of a massage school or massage program is included in each student's permanent file.

(2) A transfer program must be approved by the board prior to a program enrolling a transfer student via the use of transfer credits or clock hours.



(3) An authorized representative of the school or program must submit to the board a completed application packet provided by the department. Approval of a transfer program will follow the same process as outlined in WAC 246-830-420.

(4) Approval of a transfer program is valid for three years after initial approval and every five years for reapproval. The board may place restrictions on or may revoke or suspend approval of a transfer program that fails to comply with the requirements in this section or in RCW 18.108.028.

**((EXAMINATION))**

**NEW SECTION**

**WAC 246-830-200 Massage practitioner examination.** An applicant who does not pass an examination after three attempts must provide proof to the board of having successfully completed additional clinical training or course work as determined by the board before being permitted three additional attempts to pass an exam.

**AMENDATORY SECTION** (Amending WSR 91-01-077, filed 12/17/90, effective 1/31/91)

**WAC 246-830-201 ((Scope of)) Examination.** ~~((1) The examination for a massage practitioner's license shall, except as noted in subsection (2) of this section, consist of written questions as well as a practical demonstration of massage therapy.~~

~~(2) An applicant handicapped by blindness will not be subject to a written examination. A blind applicant will be asked questions orally to appropriately test the range and depth of his/her knowledge of the subjects shown in subsection (3) of this section.~~

~~(3) Questions will be sufficient in number to satisfy the board of massage that the applicant has been given an adequate opportunity to express his or her knowledge relating to subjects as stated in RCW 18.108.073(2).~~

~~(4) The practical demonstration of massage will be conducted before the examiner(s) and the applicant will be required to perform massage therapy. The following will be evaluated:~~

- ~~(a) Professional manner;~~
- ~~(b) Lubrication;~~
- ~~(c) Overall demonstration of work: Pressure, rhythm, smoothness, organization;~~
- ~~(d) Interaction with client;~~
- ~~(e) Effleurage;~~
- ~~(f) Petrissage;~~
- ~~(g) Friction;~~
- ~~(h) Vibration;~~
- ~~(i) Tapotement;~~
- ~~(j) Joint demonstration and Swedish gymnastics;~~
- ~~(k) Specific muscle demonstration;~~
- ~~(l) Client endangerment;~~
- ~~(m) Draping and turning;~~
- ~~(n) Treatment of various conditions.)~~

An applicant for a massage practitioner license must successfully pass one of the following examinations:

(1) Federation of Massage Therapy Board and massage and bodywork licensing examination; or

(2) National certification examination for massage therapy and bodywork; or

(3) A board-approved examination.

**AMENDATORY SECTION** (Amending WSR 94-13-181, filed 6/21/94, effective 7/22/94)

**WAC 246-830-290 Documents in a foreign language.**

All application documents submitted in a foreign language ~~((shall))~~ must be accompanied by an accurate translation of those documents into the English language. Translated documents ~~((shall))~~ must bear a notarized affidavit certifying that the translator is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. ~~((Costs of translation of all documents shall be at the expense of))~~ The applicant is responsible for the costs of translating the documents.

**AMENDATORY SECTION** (Amending WSR 95-11-108, filed 5/23/95, effective 6/23/95)

**WAC 246-830-401 ((Scope and purpose:)) Board authority.** ~~((1) The minimum educational requirements for licensure to practice massage therapy in Washington is successful completion of a course of study from a massage school, program, or apprenticeship program approved by the board.~~

~~(2) The purpose of this chapter is to provide a set of standards and procedures by which massage schools, programs, or apprenticeship programs may obtain approval by the board in order that graduates of those schools, programs, or apprenticeship programs may be permitted to take examinations for licensure.)~~ The board reviews and approves massage schools, massage programs and apprenticeship programs to assure preparation for safe practice as a massage practitioner by requiring massage schools, massage programs and apprenticeship programs to meet minimum standards. The board also sets standards for licensure by endorsement and massage transfer programs.

**AMENDATORY SECTION** (Amending WSR 95-11-108, filed 5/23/95, effective 6/23/95)

**WAC 246-830-420 Approval of massage school, massage program, or apprenticeship program.** ~~((The board may accept proof of a national professional association's approval of a school or program based on standards and requirements which are substantially equivalent to those identified in this chapter, in lieu of the requirements contained in this chapter. Approval in this manner may be requested on a form provided by the department. The board will consider for approval any school, program, or apprenticeship program which meets the requirements as outlined in this chapter.~~

~~(1) Approval of any other school or program may be requested on a form provided by the department.~~

(2) Application for approval of a school or program, shall be made by the authorized representative of the school or the administrator of the apprenticeship agreement.

(3) The authorized representative of the school or the administrator of the apprenticeship program may request approval of the school or program, as of the date of the application or retroactively to a specified date.

(4) The application for approval of a school, program, or apprenticeship program shall include, but not be limited to, documentation required by the board pertaining to: Syllabus, qualifications of instructors, training locations, and facilities; outline of curriculum plan specifying all subjects and length in hours such subjects are taught, class objectives, and a sample copy of one of each of the following exams: Anatomy, physiology, and massage therapy.

(5) Any school, program, or apprenticeship program that is required to be licensed by private vocational education (see chapter 28C.10 RCW or Title 28B RCW), or any other statute, must complete these requirements before being considered by the board for approval.

(6) The board will evaluate the application and, if necessary, conduct a site inspection of the school, program, or apprenticeship program, prior to granting approval by the board.

(7) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditional upon appropriate modification to the application.

(8) In the event the department denies an application or grants conditional approval, the authorized representative of the applicant's school or program may request a review within thirty days of the board's adverse decision/action. Should a request for review of an adverse action be made after thirty days following the board's action, the contesting party may obtain review only by submitting a new application.

(9) The authorized representative of an approved school, program or the administrator of an apprenticeship agreement shall notify the board of significant changes with respect to information provided on the application within sixty days.

(10) The board may inspect or review an approved school, program, or apprenticeship program at reasonable intervals for compliance. Approval may be withdrawn if the board finds failure to comply with the requirements of law, administrative rules, or representations in the application.

(11) The authorized representative of a school, program or administrator of an apprenticeship agreement must immediately correct the deficiencies which resulted in withdrawal of the board's approval: (1) To qualify as a board approved massage school, massage program or apprenticeship program, an authorized representative of the school or program must submit to the board a completed application packet provided by the department. A completed application packet must include, but not be limited to:

(a) A curriculum designed to meet or exceed the requirements listed in WAC 246-830-430. The following documentation must be submitted:

(i) Table of courses offered;

(ii) Syllabus for each course that includes course title, subject matter, course hours, all instructor(s) name(s), mea-

surable course objectives, methods of evaluation, course schedule, and textbooks or other instructional materials;

(iii) A sample copy of each of the following exams: Anatomy and physiology, pathology, kinesiology, practicum criteria, ethics and professionalism, and laws pertaining to massage;

(iv) Statement describing how a student will obtain first-aid and CPR training; and

(v) Institutional philosophy or mission statement.

(b) A plan for how the massage school, massage program or apprenticeship program will evaluate its academic standards. The following documentation must be submitted:

(i) Statement or policy on minimum standards for measuring student progress; and

(ii) Copies of policies and procedures, to include a policy on nondiscrimination.

(c) Documentation explaining how the massage school or massage program determines training and experience qualifications for faculty members. The following documentation must be submitted:

(i) Policy on minimum competency standards for instructors and a statement that all massage school, massage program or apprenticeship program instructors meet those standards;

(ii) Resumes for each instructor; and

(iii) A listing of all instructors and the courses each instructor plans to teach.

(d) A student clinic must be supervised by the clinical supervisor who is a licensed massage practitioner with at least two-years practical experience. The clinical supervisor is responsible for reviewing the health history of the student's client or patient, and must review and approve the student's massage plan.

The following documentation must be submitted:

(i) A copy of policies pertaining to student clinic;

(ii) Disclosure statement form provided to client or patient;

(iii) Copy of client or patient intake and screening form; and

(iv) Copy of client or patient feedback form.

(e) Health, sanitation, and facilities must be maintained in accordance with local ordinances. The following documentation must be submitted:

(i) Floor plan of facility;

(ii) Floor plan of student clinic;

(iii) Equipment in classroom;

(iv) Equipment in student clinic; and

(v) List of library contents and computer or online resources available to students.

(f) A copy of policies on faculty and student conduct.

(g) Records must be stored in a secured location and be made available upon a student's written request. The following documentation must be submitted:

(i) Copy of a sample transcript.

(ii) Policy on release of student records consistent with applicable law(s).

(h) Eligibility to operate a massage school or massage program. The following documentation must be submitted:

(i) Verification that the school is approved to operate in the state of Washington by the workforce training and education coordinating board;

(ii) Verification that the school is licensed by private vocational education (see chapter 28C.10 RCW or Title 28B RCW); or

(iii) Verification that the program is part of a college or university that is nationally or regionally accredited.

(iv) Designation of an authorized representative of the school.

(2) The board may conduct a site inspection of the massage school, massage program or apprenticeship program prior to granting approval.

(3) The board may grant or deny approval or grant conditional approval contingent upon changes to the application requested by the board.

(4) To maintain approval status with the board, a massage school, massage program or apprenticeship program must apply for reapproval during the third year after initial approval and during the fifth year for each reapproval thereafter. Failure to apply for renewal by the expiration date of the massage school, massage program or apprenticeship program approval will mean that the approval is expired and no longer valid.

(5) In order to maintain board approval, a massage school, massage program or apprenticeship program must:

(a) Comply with any changes in training standards and guidelines adopted by the board;

(b) Notify the board of any changes in overall curriculum plan or curriculum content changes prior to implementation by filing an addendum. The board may grant or deny the proposed change; and

(c) Notify the board of changes in authorized representative or instructors within thirty days of such change.

(6) An apprenticeship program is limited to no more than three apprentices per apprenticeship educator or trainer, and the apprenticeship must be completed within two years.

#### NEW SECTION

**WAC 246-830-422 Denial, suspension, or revocation of approval for a massage school, massage program, transfer program or apprenticeship program.** (1) When the board determines that a massage school, massage program, transfer program or apprenticeship program fails to meet the standards for education and training as required in this chapter, the board may:

(a) Deny approval to a new massage school, massage program, transfer program or apprenticeship program; or

(b) Suspend or revoke approval of an approved massage school, massage program, transfer program or apprenticeship program.

(2) The board may conduct a review or site visit to investigate any allegation that a massage school, massage program, transfer program or apprenticeship program has not met, or has failed to maintain, the standards set forth in this chapter including, but not limited to:

(a) Selling or offering to sell transcripts, or providing or offering to provide transcripts, without requiring attendance, or full attendance;

(b) Failure to require students to attend all of the classes listed on the transcript or school completion form;

(c) Failure to require students to attend all of the hours listed on the transcript or school completion form;

(d) Engaging in fraudulent practices including, but not limited to, the creation of fake documents to aid or abet students seeking licensure, aiding or abetting a student in cheating on the licensing examination, aiding or abetting students to use false documents or to present false testimony in hearings, aiding or abetting students in engaging in fraudulent practices with respect to hearings, making false claims, or otherwise engaging in fraudulent practices;

(e) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of any statute or rule applicable to a massage school, massage program, transfer program or apprenticeship program;

(f) Failure to create or maintain accurate records including, but not limited to, student attendance records and student transcripts or school completion form;

(g) Failure to identify transfer credit or clock hours from other institutions including name of other institution(s), credit or clock hours transferred, and class requirements met by transfer credit or clock hours on transcripts or school completion form;

(h) A finding by a state or local agency, or a private certifying, permitting, or accreditation agency related to massage, that a massage school, massage program, transfer program or apprenticeship program has engaged in any of the conduct identified in this subsection; or

(i) Failure of a massage school, massage program, transfer program or apprenticeship program that has requested board approval to meet or maintain the requirements for approval set forth in this chapter.

(3) Board approval expires and is no longer valid if the massage school, massage program, transfer program or apprenticeship program does not submit an application for renewal prior to the expiration date of the board's approval.

#### NEW SECTION

**WAC 246-830-423 Reinstatement of approval for a massage school, massage program, transfer program or apprenticeship program.** The board may consider reinstatement of a massage school, massage program, transfer program or apprenticeship program upon submission of satisfactory evidence that the massage school, massage program, transfer program or apprenticeship program meets the standards contained in WAC 246-830-420.

#### NEW SECTION

**WAC 246-830-425 Appeal rights when the board has denied, suspended, or revoked approval.** (1) A massage school, massage program, transfer program or apprenticeship program that has been denied approval or had its approval suspended or revoked may appeal the board's decision according to the provisions of chapter 34.05 RCW, the Administrative Procedure Act, Parts IV and V, and chapter 246-11 WAC.

(2) The board adopts the model procedural rules for adjudicative proceedings as adopted by the department and contained in chapter 246-11 WAC.

AMENDATORY SECTION (Amending WSR 95-11-108, filed 5/23/95, effective 6/23/95)

**WAC 246-830-430 Training.** (1) A ~~massage ((education program shall))~~ school, massage program or apprenticeship program education and training must have a curriculum and system of education and training consistent with its particular area of practice. The education and training in massage therapy ~~((shall))~~ will consist of a minimum of five hundred hours. An hour of education and training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent ~~((shall be))~~ is required. CPR training must be in person. This requirement is in addition to the five hundred hours of education and training in massage therapy. These five hundred hours are not to be completed in less than six months and ~~((shall))~~ must consist of the following:

(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of pathology including indications and contraindications consistent with the particular area of practice.

(c) Two hundred sixty-five hours of theory and practice of massage to include techniques, remedial movements, body mechanics of the practitioner, and the impact of techniques on pathologies. A maximum of fifty of these hours may include time spent in a student clinic. Hydrotherapy ~~((shall))~~ must be included when consistent with the particular area of practice.

(d) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client or patient interaction, and state and local laws.

(2) To receive credit in an apprenticeship program for previous education and training, this education and training must have been completed within the five-year period prior to enrollment in the apprenticeship program.

(3) A student((s)) attending ((schools and)) a massage school, massage program, transfer program or apprenticeship program((s)) outside the state of Washington ((shall acquire a working knowledge of the laws of Washington state applying to massage therapy)) must pass a jurisprudence exam.

(4) A massage school, massage program, transfer program or apprenticeship program may exempt a student from curriculum requirements when the student's successful performance on an examination that the massage school, massage program, transfer program or apprenticeship program administers demonstrates that the student has attained competency in that subject area as a result of prior postsecondary learning or training.

AMENDATORY SECTION (Amending WSR 03-11-033, filed 5/15/03, effective 6/15/03)

**WAC 246-830-435 Animal massage training.** (1) For the purpose of animal massage practitioner endorsement as provided in chapter 18.108 RCW, board approval will be given to any education and training program that consists of a minimum of one hundred hours. An hour of education and training is defined as fifty minutes out of a clock hour of actual instructional time. These one hundred hours must consist of the following:

(a) Twenty-five hours of animal massage technique;

(b) Twenty-five hours of animal kinesiology;

(c) Twenty hours of animal anatomy and physiology;

(d) Four hours of animal first aid which includes knowledge of normal vital signs, identification of emergency or life threatening situations, emergency first-aid application, and legal boundaries of emergency situations; and

(e) Twenty-six hours of proper handling techniques which must include instruction on the ability to control the animal to minimize risk of harm to the animal and the animal massage practitioner.

(2) Any school or training program that is required to be licensed by private vocational education (see chapter 28C.10 RCW or Title 28B RCW), or any other statute, must complete those requirements before the board will consider the training for approval.

AMENDATORY SECTION (Amending WSR 95-11-108, filed 5/23/95, effective 6/23/95)

**WAC 246-830-440 Curriculum—Academic standards—Faculty—Student clinic.** (1) The curriculum of the ~~((school, program,))~~ massage school, massage program, transfer program or apprenticeship program ((shall)) must be designed and presented to meet or exceed the ~~((requirement of))~~ required five hundred hours.

(2) Academic standards. The ~~((school, program))~~ massage school, massage program, or apprenticeship program trainer ~~((shall))~~ must regularly evaluate the quality of its instruction and have a clearly defined set of standards of competence required of its students. Promotion to each successive phase of the program and graduation ~~((shall be))~~ is dependent on mastery of the knowledge and skills presented in the massage school, massage program, or apprenticeship program.

(3) Faculty. An apprenticeship trainer~~((s))~~ and faculty member~~((s shall))~~ must be qualified by training and experience to give effective instruction in the subject(s) taught. An apprenticeship trainer and faculty member who teaches hands on courses must have a minimum of two-years experience in the subject matter being taught. The apprenticeship trainer and faculty member should develop and evaluate the curriculum instructional methods and facilities; student discipline, welfare, and counseling; assist in the establishment of administrative and educational policies, and scholarly and professional growth. A massage school~~((s))~~, massage program((s)), or apprenticeship program((s shall)) must not discriminate on the basis of sex, race, age, color, religion, physical handicap, or national or ethnic origin in the recruitment and hiring of faculty.

(4) Student clinic (optional program). ~~((The clinical facilities shall))~~ Any setting in which a student clinic occurs must be adequate in size, number, and resources to provide for student practice of massage on the general public. ((There shall)) A clinic must be properly equipped rooms for consultations, massage therapy or treatment, and equipment as required in the practice of massage. A faculty member who is a ((licensed)) massage practitioner ((and adequately experienced)) with at least two-years of experience in massage therapy must ((be present in the clinic at all times the clinic is open and in)) provide direct supervision ((of)) as a clinical supervisor, per WAC 246-830-420 (1)(d), and have final decisions in((s)) the massage ((therapy)) treatment which is rendered to clients or patients by students. A faculty member in the role of a clinical supervisor must ensure a ratio of no less than one faculty member to ten students who are actively performing massage treatment.

AMENDATORY SECTION (Amending WSR 95-11-108, filed 5/23/95, effective 6/23/95)

**WAC 246-830-450 Health, sanitation, and facility standards.** ~~((All schools, programs, and apprenticeship programs shall))~~ A massage school, massage program, or apprenticeship program must have adequate facilities and equipment available for students learning massage therapy. All facility equipment ((shall)) must be maintained in accordance with local rules and ordinances in addition to those ((imposed)) required by chapter 246-830 WAC. Instructional and practice equipment ((shall)) must be similar to that found in common occupational practice. ((An adequate reference library, appropriate to the subjects being taught, shall be available.)) A massage school, massage program, or apprenticeship program will provide students with access to a variety of current and up-to-date reference and information resources that are pertinent to massage education and training.

AMENDATORY SECTION (Amending WSR 09-11-016, filed 5/7/09, effective 6/7/09)

**WAC 246-830-475 Continuing education requirements.** (1) To renew a license, ~~((licensed))~~ a massage practitioner((s)) must complete twenty-four hours of continuing education every two years.

(a) A minimum of eight hours must be direct supervised massage skills training; and

(b) A minimum of four hours must be in professional ethics, communication, ~~((and/or))~~ or Washington state massage laws and regulations. Two of these hours must include professional roles and boundaries; and

(c) The remaining twelve hours may be met by meeting the requirements in subsection (2) of this section.

(2) For the purposes of this chapter, continuing education is defined as any of the following activities that involve direct application of massage therapy knowledge, skills, and business practices:

(a) Attendance at a local, state, national, or international continuing education program.

(b) First aid, CPR, or emergency related classes.

(c) Self-study through the use of multimedia devices or the study of books, research materials, and/or other publications.

(i) Multimedia devices. The required documentation for this activity is a letter or other documentation from the organization. A maximum of twelve hours is allowed per reporting period.

(ii) Books, research materials, and/or other publications. The required documentation for this activity is a two-page synopsis of what was learned written by the licensee. A maximum of two hours is allowed per reporting period.

(d) Teaching a course for the first time, not to exceed eight hours.

(e) Business and management courses not to exceed eight hours.

(f) Specialized training. Training must be provided for a fee by an individual who has no less than three years of expertise in that area.

(g) Distance learning. Distance learning includes, but is not limited to, correspondence course, webinar, print, audio/video broadcasting, audio/video teleconferencing, computer aided instruction, e-learning/on-line-learning, or computer broadcasting/webcasting. A maximum of twelve hours is allowed per reporting period.

(h) Active service on massage related boards or committees. A maximum of twelve hours is allowed per reporting period.

AMENDATORY SECTION (Amending WSR 00-07-086, filed 3/15/00, effective 4/15/00)

**WAC 246-830-485 Somatic education training program exemption.** (1) The secretary ~~((will consider approval for))~~ may approve an exemption from this chapter ~~((any))~~ for an individual who has completed a somatic education and training program that has a professional organization with a permanent administrative location that oversees the practice of somatic education and training and that has the following:

(a) Standards of practice;

(b) A training accreditation process;

(c) An instructor certification process;

(d) A practitioner certification process;

(e) A code of ethics or code of professional conduct.

(2) An authorized representative ~~((shall))~~ must submit a request for approval of a program on forms provided by the secretary.

(3) The secretary ~~((or designee))~~ in consultation with the board will evaluate the education and training program and grant approval or denial. If denied, applicants will be given the opportunity to appeal through the brief adjudicative hearing process as authorized in chapter 246-10 WAC.

(4) The secretary may request from an approved education and training program, and the program ~~((shall))~~ must provide, updated information every three years to ensure the program's compliance with this rule. Approval may be withdrawn if the program fails to maintain the requirements of this rule. Where a determination has been made that the program no longer meets the requirements of this rule and a decision is made to withdraw approval, an approved program

may appeal through the brief adjudicative proceeding as authorized in chapter 246-10 WAC.

(5) Organizations representing multiple training programs such as the International Alliance of Healthcare Educators, must obtain an exemption for each training program to ensure clarity regarding what is and is not exempt as a somatic education program.

AMENDATORY SECTION (Amending WSR 08-17-001, filed 8/6/08, effective 9/6/08)

**WAC 246-830-490 Intraoral massage training.** ~~((Licensed))~~ A massage practitioner~~((s))~~ may perform intraoral massage after completing specific intraoral massage edu-  
cation and training and after receiving an intraoral massage endorsement to their massage practitioner license.

To qualify for an intraoral massage endorsement ~~((you))~~ a massage practitioner must complete the following edu-  
cation and training:

(1) Sixteen hours of direct supervised education and  
training, which must include:

(a) Hands-on intraoral massage techniques, cranial anat-  
omy, physiology, and kinesiology; ~~((and))~~

(b) ~~((Hygienic practices, safety and sanitation; and~~  
~~(e)))~~ Pathology and contraindications~~((:))~~; and

(c) Hygienic practices, safety and sanitation. Hygienic  
practices, safety and sanitation includes, but is not limited to:

(i) Gloves ((shall)) must be worn during treatment and  
training which involves intraoral procedures~~((:))~~;

(ii) Fresh gloves ((shall)) must be used for every intra-  
oral client or patient contact~~((:))~~;

(iii) Gloves that have been used for intraoral treatment  
must not be reused for any other purpose; and

(iv) Gloves ((shall)) must not be washed or reused for  
any purpose. The same pair of gloves ~~((shall))~~ must not be  
used, removed, and reused for the same client or patient at the  
same visit or for any other purpose. ~~((Gloves that have been~~  
~~used for intraoral treatment shall not be reused for any other~~  
~~purpose; and))~~

(2) Supervised training must be obtained from a  
~~((licensed))~~ massage practitioner endorsed in intraoral mas-  
sage or from an individual who is licensed, certified, or regis-  
tered and who has performed intraoral massage services  
within their authorized scope of practice.

~~((DISCIPLINARY))~~

## MESSAGE BUSINESS

### NEW SECTION

**WAC 246-830-500 Equipment and sanitation.** (1) A  
massage practitioner using hydrotherapies including, but not  
limited to, cabinet, vapor or steam baths, whirlpool, hot tub or  
tub baths must have available adequate shower facilities.

(2) All cabinets, showers, tubs, basins, massage or steam  
tables, hydrotherapy equipment, and all other fixed equip-  
ment used must be thoroughly cleansed using an effective  
bactericidal agent.

(3) Combs, brushes, shower caps, mechanical, massage  
and hydrotherapy instruments, or bathing devices that come

in contact with the body must be sterilized or disinfected by  
modern and approved methods and instruments. Devices,  
equipment or parts thereof having been used on one person  
must be sterilized or disinfected before being used on another  
person.

(4) Impervious material must cover, full length and  
width, all massage tables or pads, pillows, bolsters, and face  
cradles directly under fresh sheets and linens or disposable  
paper sheets.

(5) A massage practitioner must provide single service  
materials or clean linen such as sheets, towels, gowns, pillow  
cases, and all other linens used in the practice of massage.  
Linens must be stored in a sanitary manner.

(6) All towels and linens used for one client or patient  
must be laundered or cleaned before they are used on any  
other client or patient.

(7) All soiled linens must be immediately placed in a  
covered receptacle.

(8) Soap and clean towels must be provided by the mas-  
sage practitioner for use by massage practitioners, clients or  
patients and any employees.

(9) All equipment must be clean, well maintained and in  
good repair.

### NEW SECTION

**WAC 246-830-510 Hygiene.** To maintain a profes-  
sional standard of hygiene in their practice, a massage practi-  
tioner must:

(1) Cleanse their exposed body part used for applying  
treatment, before and after each treatment, using a sink with  
hot water or a chemical germicidal product;

(2) Maintain a barrier of unbroken skin on their exposed  
body part used for applying treatment during each treatment  
and in the case of broken skin use a finger cot, glove or chem-  
ical barrier product to cover the affected area during treat-  
ment; and

(3) Wear clothing that is clean.

### NEW SECTION

#### **WAC 246-830-515 Operation of a massage business.**

A person who owns or operates a massage business may be  
subject to legal action for practice without a license under  
RCW 18.130.190 if the massage business advertises massage  
and the massage business employs individuals to provide  
massages who are not licensed under this chapter.

## PRACTICE REQUIREMENTS AND LIMITATIONS

### NEW SECTION

#### **WAC 246-830-550 Scope of practice—Limitations.**

(1) It is not consistent with the standard of practice for a mas-  
sage practitioner to touch the following body parts on a client  
or patient:

(a) Gluteal cleft distal to the coccyx, anus and rectum;

(b) Inside the mouth unless an intraoral endorsement has  
been issued;

(c) Penis;

(d) Prostate;

- (e) Scrotum;
- (f) Vagina, to include:
  - (i) Intravaginal;
  - (ii) Labia (majors and minors);
  - (iii) Clitoris;
  - (iv) Urethra; or
- (g) Breasts, unless in accordance with WAC 246-830-555.

(2) A massage practitioner must maintain evidence of the completion of at least sixteen specialized in-person contact hours of education and training if they are performing massage in the perineal area in addition to obtaining prior written informed consent.

(3) A massage practitioner must not engage in sexual misconduct as described in WAC 246-16-100. Sexual misconduct will constitute grounds for disciplinary action.

#### NEW SECTION

**WAC 246-830-555 Breast massage.** (1) Prior to performing breast massage, a massage practitioner must:

(a) Acquire a prior signed written consent. The written consent for breast massage may be included within an overall general consent to massage document, if clearly delineated and either specifically initialed or signed. The written consent must:

- (i) Be maintained with the client or patient's records;
- (ii) Include a statement that the client or patient may discontinue the treatment at any time for any reason;
- (iii) If the client or patient is under eighteen years of age, prior written consent must be obtained from a parent or legal guardian; and
- (iv) Include a statement that the client or patient has the option to have a witness present, and that the witness must be provided by the client or patient.

(b) Use appropriate draping techniques as identified in WAC 246-830-560 (draping section).

(2) In addition to the requirements identified in subsection (1) of this section, a massage practitioner must maintain evidence of the completion of at least sixteen hours of specialized in-person education and training in breast massage beyond the minimum competencies. Education and training in breast massage includes, but is not limited to: Breast anatomy and physiology, pathology, indications, contraindications, therapeutic treatment techniques, draping, appropriate therapist-client or patient boundaries, expected outcomes, and client or patient safety related to breast massage.

(3) In addition to the requirements in subsections (1) and (2), prior to performing a massage of the nipples and areolas, a massage practitioner must obtain additional documentation as follows:

- (a) A written prescription or referral from a licensed medical health care provider for this specific treatment; or
- (b) An additional written and signed or initialed consent from the client or patient for massage of the nipple and areolas.

#### NEW SECTION

**WAC 246-830-560 Draping.** (1) A massage practitioner must:

(a) Allow a client or patient privacy to dress or undress except as may be necessary in emergencies or custodial situations; and

(b) Always provide the client or patient a gown or draping except as may be necessary in emergencies.

(2) Massage practitioners must use safe and functional coverage and draping practices during the practice of massage when the client or patient is disrobed. The drape(s) must be sufficient to ensure the genitals and the gluteal cleft below tip of coccyx, anus and rectum are not exposed, and the breast area is not exposed except as allowed in subsections (3) and (4) of this section. Safe and functional coverage and draping means:

(a) The massage practitioner explains, maintains and respects coverage and draping boundaries; and

(b) Massage or movement of the body does not expose genitals or gluteal cleft below tip of coccyx, anus and rectum, or does not expose the breast area except as allowed in subsections (3) and (4) of this section.

(3) With informed and written consent of the client or patient, the gluteal and breast drapes may be temporarily moved in order to perform therapeutic treatment of the area. In addition, with informed and written consent, a client or patient may choose to have their upper torso undraped during the entire massage.

(4) If variations to this coverage and draping rule occur, a massage practitioner must:

(a) Maintain evidence of education and training in specific modalities that require variations in coverage and draping;

(b) Receive voluntary and informed consent of the client or patient prior to any variation of coverage or draping; and

(c) Document in the client's or patient's record the rationale for any variation of coverage or draping.

(5) Any written consent required by this section may be included within an overall general consent to massage document, if clearly delineated and either specifically initialed or signed.

#### NEW SECTION

**WAC 246-830-565 Recordkeeping.** (1) A massage practitioner providing professional services to a client or patient, must document services provided. Documentation should be appropriate to the venue, the type and complexity of those services, and in sufficient detail to support and enable anticipated continuity of care. The documentation must include:

- (a) Client or patient name and contact information;
- (b) Health history sufficient to ascertain if there are cautions or contraindications to safe application of massage therapy, and an update of the current health status at each session;
- (c) Date massage therapy is provided and the duration of treatment;
- (d) The types of techniques and modalities applied;
- (e) The location or areas of the body that received massage therapy;

(f) Written consent to treat;

(g) If breast massage is performed, an additional written consent to treat per WAC 246-830-555, and documentation of a therapeutic rationale;

(h) If breast massage of the nipples and areolas are involved, documentation of the prescription or referral per WAC 246-830-555 (3)(a), or an additional written consent to treat per WAC 246-830-555 (3)(b);

(i) Documentation of any written consent or any modification in draping as required by WAC 246-830-560; and

(j) For massage therapy where the focus is on treating a health condition, the following additional information is required:

(i) Symptoms, for example, pain, loss of function, and muscle stiffness;

(ii) Evaluation and findings, for example, movement, posture, palpation assessment and findings;

(iii) Outcome measures, for example, improvement in symptoms, movement, posture, palpation, and function; and

(iv) Treatment plan for future sessions.

(2) Client or patient records must be legible, permanent, and recorded within twenty-four hours of treatment. Documentation that is not recorded on the date of service must designate both the date of service and the date of the chart note entry. Corrections or additions to the client's or patient's records must be corrected by a single line drawn through the text and initialed so the original entry remains legible. In the case of computer-organized documentation, unintended entries may be identified and corrected, but must not be deleted from the record once the record is signed and completed or locked. Errors in spelling and grammar may be corrected and deleted.

(3) Correspondence relating to any referrals concerning the evaluation or treatment of the client or patient must be retained in the client or patient record.

(4) Client or patient records should clearly identify the massage practitioner who is the provider of services by name and signature or electronic signature and date of service.

#### NEW SECTION

**WAC 246-830-570 Record retention.** (1) A massage practitioner who treats clients or patients eighteen years of age and older must keep client or patient records for at least three years from the date of last treatment.

(2) A massage practitioner who treats clients or patients under the age of eighteen years old must keep client or patient records for at least three years after the client or patient reaches eighteen years old.

(3) All records must be secured with properly limited access.

(4) After the retention period, the massage practitioner may dispose of the record. Disposal must be done in a secure and confidential manner in compliance with HIPAA as applicable and that includes:

(a) Shredding;

(b) Deleting, erasing, or reformatting electronic media; and

(c) Other readable forms of media that are defaced or rendered unusable or unreadable.

## CREDENTIAL STATUS

### NEW SECTION

**WAC 246-830-575 Expired credential—Return to active status.** (1) A person holding an expired credential may not practice until the credential is returned to active status.

(2) If the credential has been expired for less than three years, he or she must meet the requirements of chapter 246-12 WAC, Part 2.

(3) If the credential has been expired for three years or more, he or she must comply with chapter 246-12 WAC, Part 2, and submit proof of completion of twenty-four hours of continuing education which was completed within the past two years of the date of application for renewal.

### NEW SECTION

**WAC 246-830-580 Inactive credential.** A massage practitioner may obtain an inactive credential as described in chapter 246-12 WAC, Part 4.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-830-010 Meetings of the board.

WAC 246-830-040 Equipment and sanitation.

WAC 246-830-477 Inactive credential.

WAC 246-830-610 Definitions.

WAC 246-830-620 Mandatory reporting.

WAC 246-830-630 Health care institutions.

WAC 246-830-640 Massage practitioner associations or societies.

WAC 246-830-650 Health care service contractors and disability insurance carriers.

WAC 246-830-660 Professional liability carriers.

WAC 246-830-670 Courts.

WAC 246-830-680 State and federal agencies.

## WSR 17-07-114

### PROPOSED RULES

### DEPARTMENT OF HEALTH

[Filed March 21, 2017, 2:23 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 17-02-007.

Title of Rule and Other Identifying Information: Chapter 246-805 WAC, creating new WAC 246-805-240 Licensed assistant behavior analyst—Continuing supervision, to address continuing supervision for licensed assistant behavior analysts; and new WAC 246-805-020 Supervision disclosure, to address supervision disclosure and documentation for



licensed assistant behavior analysts and certified behavior technicians.

Hearing Location(s): Department of Health, Point Plaza East, Room 153, 310 Israel Road S.E., Tumwater, WA 98501, on April 27, 2017, at 10:00 a.m.

Date of Intended Adoption: May 10, 2017.

Submit Written Comments to: Brett Lorentson, Washington State Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by April 27, 2017.

Assistance for Persons with Disabilities: Contact Brett Lorentson by April 20, 2017, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal creates two new sections in rule to chapter 246-805 WAC, Applied behavior analysis (ABA). WAC 246-805-240 set[s] enforceable standards for supervision to increase the likelihood of clients receiving competent and safe services from a licensed assistant behavior analyst (LABA). WAC 246-805-020 requires LABAs and certified behavior technicians (CBT) to make ABA clients, and their parents where appropriate, aware that the LABA or CBT is providing services under supervision.

Reasons Supporting Proposal: Establishing supervision requirements in rule sets enforceable standards that are expected to increase the likelihood that clients will receive effective and safe ABA services.

Statutory Authority for Adoption: RCW 18.380.050.

Statute Being Implemented: Chapter 18.380 RCW.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brett Lorentson, 111 Israel Road S.E., Tumwater, WA 98504-7852, (360) 236-4611.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Brett Lorentson, Department of Health, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4611, fax (360) 236-2901, email [Brett.Lorentson@doh.wa.gov](mailto:Brett.Lorentson@doh.wa.gov).

March 21, 2017

John Wiesman, DrPH, MPH  
Secretary

#### NEW SECTION

**WAC 246-805-020 Supervision disclosure.** Supervision disclosure. Prior to providing services to a client, an LABA and CBT must disclose in writing the supervisor's name and contact information.

Documentation of disclosure must be maintained in the client file.

#### NEW SECTION

**WAC 246-805-240 Licensed assistant behavior analyst—Continuing supervision.** (1) A LABA must work under the supervision of a LBA for each client receiving ABA services.

(2) A supervisor shall:

(a) Hold an active license in good standing as a Washington state LBA; and

(b) Be responsible and accountable for the services a LABA provides to clients.

(3) The LABA and the supervisor must develop a supervision agreement before the LABA begins to provide any behavior analytic tasks. A copy of the supervision agreement must be maintained by both the supervisor and LABA. The supervision agreement must include, but not be limited to:

(a) Duties and responsibilities the LABA will perform;

(b) Mechanism for reporting caseload to supervisor;

(c) Type and frequency of supervision; and

(d) Signature of both the supervisor and supervisee.

(4) The supervisor shall review the LABA's progress with the LABA at least every six months.

(5) The supervision shall include:

(a) At least one face-to-face contact per month with the LABA. Face-to-face contact may occur in person or by videoconferencing, and may include small group interaction; and

(b) Visually observing the LABA with clients on a quarterly basis for at least one treatment session. Observation may occur in person or by videoconferencing.

#### **WSR 17-07-116**

#### **PROPOSED RULES**

#### **DEPARTMENT OF HEALTH**

[Filed March 21, 2017, 2:45 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-02-031.

Title of Rule and Other Identifying Information: Chapter 246-834 WAC, Midwifery, the department of health is revising sections of the midwifery chapter in order to clarify, streamline, and modernize rules. The department is also revising this WAC to include the elements of newborn care up to two weeks, as described in 2014 amendments to the midwifery law chapter 18.50 RCW, and 2014 amendments to chapter 70.83 RCW regarding newborn screening.

Hearing Location(s): Department of Health, Town Center 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on May 4, 2017, at 9:30 a.m.

Date of Intended Adoption: May 15, 2017.

Submit Written Comments to: Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax (360) 236-2901, by May 4, 2017.

Assistance for Persons with Disabilities: Contact Kathy Weed by May 1, 2017, TTY (800) 833-6388, or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules implement section 1 of 2SHB 1773 (chapter 187, Laws

of 2014) that amended RCW 18.50.010 expanding the midwifery scope of practice to allow for care for the newborn up to two weeks of age. The proposed rules update requirements for approved schools, foreign trained applicants, and activating a license after an extended period of time. The proposed rules also clarify, streamline, and modernize rule language since the language in this chapter has had few updates since 1991.

Reasons Supporting Proposal: 2SHB 1773 allows the department to define typical elements of newborn care. A five year review of the chapter is also required under RCW 43.70.014. The proposed rule amendments are based on input from stakeholders, specifically midwives [and] other obstetric providers. Except for revising individual sections, a comprehensive review of this chapter has not been done since 1991. Additionally, amending the rules will make them more consistent with current law and midwifery practice.

Statutory Authority for Adoption: RCW 18.50.010, 18.50.040, 18.50.050, 18.50.135.

Statute Being Implemented: RCW 18.50.010.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4883.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

A copy of the statement may be obtained by contacting Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-4883, fax (360) 239-2901, email kathy.weed@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4883, fax (360) 236-2901, email kathy.weed@doh.wa.gov.

March 21, 2017

John Wiesman, DrPH, MPH  
Secretary

**AMENDATORY SECTION** (Amending WSR 92-02-018, filed 12/23/91, effective 1/23/92)

**WAC 246-834-010 Definitions.** ~~((1) Academic director as used in these rules means the individual who is responsible for planning, organizing and implementing all aspects of the curriculum of a midwifery education program.~~

~~(2) Health care provider as used in RCW 18.50.108 means any licensed physician who is engaged in active clinical obstetrical practice.~~

~~(3)) The following definitions apply throughout this chapter unless the context clearly indicates otherwise:~~

~~(1) "Active practice" means twenty hours per month in prenatal and postpartum clinical care, or minimum of six births annually as the primary midwife;~~

~~(2) "Department" means the Washington state department of health;~~

~~(3) "Directly assisted" means the act where a student midwife is learning the skills of a midwife through hands-on clinical experience in gradually increasing degrees of responsibility while under supervision of a licensed midwife or other obstetric provider;~~

~~(4) "Lactation care and services" means evaluation, problem identification, treatment, education, and consultation regarding lactation and breastfeeding to mothers and neonates;~~

~~(5) "Nursing education" ((as used in these rules)) means completion of courses for credit in a school that is approved to train persons for licensure as registered nurses or licensed practical nurses, or courses in other formal training programs which include instruction in basic nursing skills((-~~

~~(4)), excluding nursing assistant training;~~

~~(6) "Practical midwifery experience" ((as used in these rules)) means performance ((is)) of tasks within the midwifery ((functions, prior to obtaining a license)) scope of practice, that is verified by affidavit, testimony or other sworn written documentation that verifies that the experience and its documentation is equivalent to that required of ((regularly)) students enrolled in an accepted midwifery ((students.~~

~~(5) Preceptor. A) education program;~~

~~(7) "Preceptor" ((is)) means a licensed ((or legally practicing)) midwife or other obstetric practitioner licensed by their state or jurisdiction to provide maternity care who assumes responsibility for supervising the practical (clinical obstetric) experience of a student midwife((-The preceptor shall be physically present whenever the student is managing a birth, and shall evaluate in writing the student's overall performance.~~

~~(6) Supervision means the observation and evaluation of a student midwife's practical performance. A supervisor need not be physically present in nonbirth situations. However, when a student midwife undertakes managing a birth, the supervisor must be physically present.~~

~~(7) Survey visit is an information gathering and observational visit intended to provide the basis for the director's assessment of a school's compliance with all aspects of chapter 18.50 RCW-);~~

~~(8) "Primary attendant" means a student midwife who acts as primary midwife making intrapartum clinical decisions while under supervision of a licensed midwife or other obstetric provider;~~

~~(9) "Secretary" means the secretary of the Washington state department of health;~~

~~(10) "Supervision" means the observation and evaluation of a student midwife's practical performance. A supervisor must be physically present on-site and available to intervene when a student midwife performs any clinical care task at births and prenatal and postpartum care exams.~~

**AMENDATORY SECTION** (Amending WSR 99-03-064, filed 1/18/99, effective 2/18/99)

**WAC 246-834-050 Examination requirements for licensure as a midwife.** ((This rule provides the minimum

~~examination requirements for licensure as a midwife.) An applicant for midwifery licensure shall successfully pass:~~

~~(1) The midwifery examination offered by the North American Registry of Midwives (NARM) ((is the official examination for midwifery licensure. All applicants must complete this examination with a passing score. This examination shall be offered by the department of health midwifery program twice a year. If the applicant passes the examination within two years prior to applying for a Washington license, the department will accept the results.~~

~~(2) In addition to the NARM examination, all applicants must pass the Washington state specific component examination.)):~~

~~(2) The Washington state licensure examination with a minimum passing score of eighty; and~~

~~(3) The midwifery jurisprudence examination with a passing score of one hundred percent, as offered by the department.~~

#### NEW SECTION

**WAC 246-834-062 Initial or reinstating application for individuals who have not been in the active practice of midwifery.** This section applies to applicants for an initial license as a licensed midwife, or reinstatement of a midwifery license, who have not been in the active practice of midwifery prior to initial or reinstatement license application.

(1) Any applicant who has not been engaged in the active practice of midwifery for more than three years but less than five years prior to the date of application shall, in addition to the requirements for licensure as specified in WAC 246-834-060 and 246-834-140:

(a) Provide documentation of a minimum of ten births while acting as a birth assistant under the supervision of a preceptor within the last twelve months; and

(b) Provide documentation of completion of continuing education for the three years prior to application that meets the requirements of WAC 246-834-355.

(2) Any initial or reinstating applicant who has not been engaged in the active practice of midwifery for five or more years prior to the date of application shall, in addition to the requirements for licensure as specified in WAC 246-834-060 and 246-834-140:

(a) Provide documentation of a minimum of fifteen births while acting as a birth assistant under the supervision of a preceptor within the last twelve months;

(b) Provide documentation of completion of continuing education for the three years prior that meets the requirements of WAC 246-834-355; and

(c) If applying for reinstatement, retake and pass the current Washington state midwifery licensure examination.

(3) This section does not apply to any applicant who has been enrolled in a recognized educational program under WAC 246-834-135 or 246-834-065.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-834-065 Application for examination—((Out of state education)) Foreign trained.** (((1) A midwife not licensed in the state of Washington)) An applicant

for a midwife license who graduated from a foreign educational institution on midwifery outside of any U.S. jurisdiction may sit for the licensing examination ((without completing the required coursework or the midwife in training program provided the midwife meets the following requirements:

(a) Has completed a program preparing candidates to practice as a midwife provided such program is equivalent to the minimum course requirements of approved midwifery programs in Washington at the time of applicant's program completion. Proof of equivalency shall be submitted by the applicant with the application.

(b) The transcript of the applicant's completed midwifery program verifies that:

(i) All courses were completed with a grade of C (pass) or better; and

(ii) At least fifteen managed births were completed under the preceptorship of an experienced midwife approved by the candidate's educational program.

(c) If managed births completed under the preceptorship in (b)(ii) of this subsection are less than fifty, then affidavits of births the applicant has managed must be submitted in a sufficient number to prove that the applicant has managed a total of at least fifty births.

(2) The applicant shall submit to the department:

(i) A complete notarized application with the required fee.

(ii) Notarized copies of educational preparation or an official transcript verifying educational preparation or an official transcript verifying educational preparation to practice midwifery.

(iii) Declarations of managed births as required in subsection (1)(c) of this section.

(3) Applicants must demonstrate completion of seven clock hours of AIDS education as provided in chapter 246-12 WAC, Part 8)) provided the applicant completes all requirements in this section:

(1) Complete application requirements for licensure in WAC 246-834-060;

(2) Provide proof of a certificate or diploma from a foreign institution on midwifery of equal requirements conferring the full right to practice midwifery in the country in which it was issued. The diploma must bear the seal of the institution from which the applicant graduated. If applicable, the candidates must, at her or his own expense, present with the application a certified translation of the foreign certificate or diploma made by and under the seal of the consulate of the country in which the certificate or diploma was issued;

(3) Submit proof of completing at least three years of midwifery training including the study of basic nursing that meets the requirements under WAC 246-834-140(1);

(4) Submit proof of meeting minimum educational requirements under WAC 246-834-140 (2)(a) and (b);

(5) Submit to the department documentation of attendance at one hundred births that meets the requirements of WAC 246-834-140 (3)(a);

(6) Submit to the department documentation of prenatal care examinations of fifty women and early postpartum care examinations of fifty women that meets the requirements of WAC 246-834-140 (3)(b); and

(7) Demonstrate competency in the use and administration of legend drugs and devices described in RCW 18.50-115 and WAC 246-834-250. The applicant shall submit documentation of competency to the department on a department supplied form. A licensed health care professional who, within his or her scope of practice, is qualified in the use and administration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250 must sign the form.

AMENDATORY SECTION (Amending WSR 99-03-064, filed 1/18/99, effective 2/18/99)

**WAC 246-834-080 Examination failures.** (1) An applicant who has failed (~~(either)~~) the NARM examination or the Washington state (~~(specific component)~~) licensing examination, or both (~~(must)~~), shall retake and pass the examination(s) which he or she failed.

(2) The applicant who fails the Washington state licensing examination may sit for the (~~(examination)~~) reevaluation if he or she:

(a) Applies to the department at least (~~(fifty-six)~~) fourteen days prior to the next scheduled examination; and

(b) Pays (~~(any)~~) the required fee as specified in WAC 246-834-990.

~~((2))~~ (3) An applicant(s) who fails the (~~(second retest)~~) NARM or Washington licensing examination three consecutive times shall (~~(be required to)~~) submit evidence to the secretary of completion of an individualized program of study approved (~~(in advance)~~) by the department prior to retaking the examination.

~~((3) Applicants may have their examination hand-scored by submitting a request and appropriate fee directly to NARM within ninety days of the examination administration. A copy of their request must be sent to the department. The department will inform the applicant of the results of the hand-scored examination.)~~

#### NEW SECTION

**WAC 246-834-135 Secretary accredited midwifery programs.** The secretary accepts midwifery education programs that meet the Midwifery Education Accreditation Council (MEAC) standards and competencies established in 2014 as accredited and approved courses of instruction.

AMENDATORY SECTION (Amending WSR 92-02-018, filed 12/23/91, effective 1/23/92)

**WAC 246-834-140 ((Curriculum.) Eligibility for state licensing examination.** Candidates for the state licensing examination shall meet the following conditions, unless applying under WAC 246-834-066 Certified professional midwife (CPM) licensure requirements:

(1) (~~(The basic curriculum)~~) Midwifery training shall be at least three academic years, and shall consist of both didactic and clinical instruction sufficient to meet the educational standards of the school and (~~(of chapter 18.50 RCW)~~) this section. However, (~~(the school may shorten)~~) the length of (~~(time for the program)~~) required training may be shortened, but not to less than two academic years, after consideration of the student's documented education and experience in the

required subjects, if the applicant is a registered nurse or practical nurse licensed under chapter (~~(18.88 RCW, a licensed practical nurse under chapter 18.78 RCW,)~~) 18.79 RCW, or has had previous nursing education or practical midwifery experience. (~~(The midwifery training shall not be reduced to a period of less than two academic years. Each student)~~)

(2) The applicant must receive instruction in the following educational areas:

(a) Basic sciences (including biology, physiology, microbiology, anatomy with emphasis on female reproductive anatomy, genetics and embryology), normal and abnormal obstetrics and gynecology, family planning techniques, childbirth education, nutrition both during pregnancy and lactation, breast feeding, neonatology, epidemiology, community care, and medicolegal aspects of midwifery; and

(b) Basic nursing skills and clinical skills including, but not limited to, vital signs, perineal prep, catheterization, aseptic techniques, administration of medications both orally and by injection, local infiltration for anesthesia, venipuncture, administration of intravenous fluids, infant and adult resuscitation, and charting.

(3) The applicant must undertake the care of not less than (~~(fifty women in each of the prenatal, intrapartum and early postpartum periods. The care of up to thirty five women in each of the periods may be undertaken as a part of previous nursing education or practical midwifery experience as defined in WAC 246-834-010(5))~~) one hundred women in the intrapartum period. No less than fifteen of the one hundred women must be cared for in (~~(each)~~) the intrapartum period while the applicant was enrolled in the school from which the student graduates. (~~(The student need not see the same women throughout each of the periods. A candidate for licensure must observe an additional fifty women in the intrapartum period in order to qualify for licensure. Up to thirty five of these observations may be as a part of previous nursing education or practical midwifery experience as defined in WAC 246-834-010(5). No less than fifteen women must be observed in the intrapartum period while enrolled in the school from which the student graduates.~~)

(2) ~~Each school must ensure that the students receive instructions in the following instruction area:~~

(a) ~~Instruction in basic sciences (including biology, physiology, microbiology, anatomy with emphasis on female reproductive anatomy, genetics and embryology) normal and abnormal obstetrics and gynecology, family planning techniques, childbirth education, nutrition both during pregnancy and lactation, breast feeding, neonatology, epidemiology, community care, and medicolegal aspects of midwifery.~~

(b) ~~Instruction in basic nursing skills and clinical skills, including but not limited to vital signs, perineal prep, enema, catheterization, aseptic techniques, administration of medications both orally and by injection, local infiltration for anesthesia, venipuncture, administration of intravenous fluids, infant and adult resuscitation, and charting.~~

(c) ~~Clinical practice in midwifery which includes care of women in the prenatal, intrapartum and early postpartum periods, in compliance with RCW 18.50.040.~~

(3) ~~Provision shall be made for systematic, periodic evaluation of the curriculum.~~

(4) Any proposed major curriculum revision shall be presented to the secretary at least three months prior to implementation.)

(a) The applicant shall submit to the department documentation of attendance at one hundred births of which:

(i) At least thirty births where the applicant was the primary attendant under supervision of a qualified attendant;

(ii) At least twenty births where the applicant directly assisted;

(iii) At least fifty births that the applicant observed in addition to births counted in (d)(i) and (ii) of this subsection; and

(iv) Documentation for (a)(i) through (iii) of this subsection must include at least the date, client identifier, the applicant's role at each birth, and the signature or initials of the qualified attendant at the birth of either: A licensed midwife, a CPM preceptor, a certified nurse midwife, or a practitioner licensed by their state or jurisdiction to provide maternity care. The applicant shall submit to the department the name and contact information of each signatory, if available. The department may approve exceptions to the required documentation in this subsection.

(b) The applicant shall submit to the department documentation of prenatal care examinations of fifty women and early postpartum care examinations of fifty women. The same women need not be seen for both examinations.

(i) No less than fifteen women must be cared for in the prenatal and postpartum periods while enrolled in the school from which the student graduates.

(ii) Documentation must include at least the date, client identifier, and the signature or initials of the qualified attendant at the care examination of either: A licensed midwife, a CPM preceptor, a certified nurse midwife, or a practitioner licensed by their state or jurisdiction to provide maternity care. The applicant must submit to the department the name and contact information of each signatory, if available. The department may approve exceptions to the required documentation in this subsection.

(4) The applicant shall demonstrate competency in the use and administration of legend drugs and devices described in WAC 246-834-250. The applicant shall submit documentation of competency to the department on a department supplied form. A licensed health care professional who, within his or her scope of practice, is qualified in the use and administration of legend drugs and devices described in RCW 18.50.115 and WAC 246-834-250 must sign the form.

**AMENDATORY SECTION** (Amending WSR 92-02-018, filed 12/23/91, effective 1/23/92)

**WAC 246-834-160 Student midwife permit.** (1) A student midwife permit may be issued to any individual who has:

(a) Successfully completed an accredited midwifery program as specified in WAC 246-834-135, or is foreign trained as specified in ((RCW 18.50.040 (2)(a) and (b); and

(b) Undertaken)) WAC 246-834-065(1);

(b) Obtained a minimum period of midwifery training of at least three academic years as required by WAC 246-834-140;

(c) Met the minimum education requirements required in WAC 246-834-140 (2)(a) and (b);

(d) Documentation of undertaking the care of not less than fifty women in each of the prenatal, intrapartum and early postpartum periods as required by RCW 18.50.040 (2)(c) ((and by these rules; and

(e));

(e) Satisfactorily completed the ((licensing)) NARM examination required by ((RCW 18.50.060)) WAC 246-834-050; and

((d)) (f) Filed a completed application for student midwife permit under WAC 246-834-060 and accompanied by a nonrefundable fee as specified in WAC 246-834-990.

(2) The student midwife permit authorizes the individuals to practice and observe ((fifty)) women in the intrapartum period under the supervision of a licensed midwife((, licensed physicians or CRN-)) under 18.50 RCW, an allopathic physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW or certified nurse midwife((h)) under chapter 18.79 RCW.

(3) Once all application requirements including clinical components are completed the applicant may be eligible to sit for the Washington state licensure examination.

#### **NEW SECTION**

##### **WAC 246-834-255 Elements of care for the newborn.**

The customary scope of care of a newborn up to two weeks of age by a licensed midwife includes, but is not limited to, clinical assessment, treatment, education, support and referral as described in this section. Newborn care shall not go beyond the scope of the midwife's education, training and experience.

(1) Immediate newborn care includes, but is not limited to:

(a) Appearance, pulse, grimace, activity and respiration (APGAR) assessment;

(b) Stabilization and monitoring of the newborn for a minimum of two hours postpartum;

(c) Early initiation and facilitation of breast or bottle feeding;

(d) Complete physical examination;

(e) Education for parents regarding care and monitoring of the normal newborn; and

(f) Physician consultation, referral and/or transfer of care in the event of significant deviations from normal.

(2) Other support may include:

(a) Neonatal resuscitation; and

(b) Legend drugs and devices allowed in RCW 18.50-115 and WAC 246-834-250.

(3) Subsequent care may include, but is not limited to:

(a) Evaluating the newborn for well-being such as jaundice, weight loss, and adequate feeding and elimination patterns;

(b) Newborn metabolic screening per RCW 70.83.020;

(c) Critical congenital heart disease screening per RCW 70.83.090;

(d) Lactation care and services; and

(e) Consultation and/or referral to pediatric care for any significant deviation from normal.

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-834-400 Expired license.** (1) If ~~((the))~~ a midwife's license under this chapter has expired for three years or less, to reinstate the license the practitioner ~~((must))~~ shall meet the requirements of chapter 246-12 WAC, Part 2.

(2) If ~~((the license has expired for over three years, the practitioner must:~~

~~((a) Demonstrate competence to the standards established by the secretary;))~~ a midwife's license under this chapter has expired and the practitioner has been engaged in the active practice of midwifery, to reinstate the license the practitioner shall:

(a) Submit verification of active practice; and

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

(3) If a midwife's license under this chapter has been expired for more than three years but less than five years at time of application, and the practitioner has not been actively engaged in midwifery, the practitioner shall:

(a) Work as a birth assistant under the supervision of a department approved preceptor for a minimum of ten births; and

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

(4) If a midwife's license under this chapter has been expired for more than five years at time of application, and the practitioner has not been actively engaged in midwifery, the practitioner shall:

(a) Work as a birth assistant under the supervision of a department approved preceptor for a minimum of fifteen births;

(b) Retake and successfully pass the Washington state licensing examination; and

(c) Meet the requirements of chapter 246-12 WAC, Part 2.

(5) A proposed preceptor shall:

(a) Hold an active license without restriction, current discipline, or conditions as a midwife under chapter 18.50 RCW, a certified nurse midwife under chapter 18.79 RCW, an allopathic physician under chapter 18.71 RCW, or an osteopathic physician under chapter 18.57 RCW;

(b) Have actively practiced at least three consecutive years or attended at least one hundred fifty births; and

(c) Have demonstrated ability and skill to provide safe, quality care.

NEW SECTION

**WAC 246-834-450 Inactive license.** (1) A licensed midwife may obtain an inactive license. Refer to the requirements of chapter 246-12 WAC, Part 4.

(2) An inactive license must be renewed every year on the midwife's birthday according to WAC 246-12-100 and by paying the fee required under WAC 246-834-990.

(3) A midwife with an inactive license may return to active status.

(a) A midwife with an inactive license for three years or less who wishes to return to active status must meet the requirements of chapter 246-12 WAC, Part 4.

(b) A midwife with an inactive license for more than three years, who has been in active practice and wishes to return to active status must:

(i) Submit verification of active practice; and

(ii) Meet the requirements of chapter 246-12 WAC, Part 4.

(c) A midwife with an inactive license for more than three years but less than five, who has not been in active practice and wishes to return to active status must:

(i) Work as a birth assistant under the supervision of a department approved preceptor for a minimum of ten births; and

(ii) Meet the requirements of chapter 246-12 WAC, Part 4.

(d) A midwife with an inactive license for more than five years who has not been in active practice and wishes to return to active status must:

(i) Work as a birth assistant under the supervision of a department approved preceptor for a minimum of fifteen births;

(ii) Retake and successfully pass the Washington state licensing examination; and

(iii) Meet the requirements of chapter 246-12 WAC, Part 4.

(4) A proposed preceptor shall:

(a) Hold an active license without restriction, current discipline, or conditions as a midwife under chapter 18.50 RCW, a certified nurse midwife under chapter 18.79 RCW, an allopathic physician under chapter 18.71 RCW, or an osteopathic physician under chapter 18.57 RCW;

(b) Have actively practiced at least three consecutive years or attended at least one hundred fifty births; and

(c) Have demonstrated ability and skill to provide safe, quality care.

AMENDATORY SECTION (Amending WSR 12-19-088, filed 9/18/12, effective 11/1/12)

**WAC 246-834-990 Midwifery fees and renewal cycle.**

(1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) The following fees are nonrefundable:

Title of Fee	Fee
Initial application	\$500.00
<del>((National examination administration (initial/retake)</del>	<del>103.00))</del>
State examination (initial/retake)	155.00
Renewal	500.00
Late renewal penalty	250.00
Duplicate license	25.00
Certification of license	25.00
<del>((Application fee — Midwife in training program</del>	<del>978.75))</del>
Expired license reissuance	300.00
UW online access fee (HEAL-WA)	16.00

<b>Title of Fee</b>	<b>Fee</b>
<u>Student midwife permit</u>	<u>175.00</u>
<u>Inactive credential</u>	<u>250.00</u>

**WSR 17-07-117**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
 [Filed March 21, 2017, 2:51 p.m.]

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

- WAC 246-834-070 Release of examination results.
- WAC 246-834-090 Purpose of accreditation of midwifery educational programs.
- WAC 246-834-100 Philosophy, purpose and objectives of an accredited midwifery educational program.
- WAC 246-834-110 Advisory body.
- WAC 246-834-120 Learning sites.
- WAC 246-834-130 Staffing and teacher qualifications.
- WAC 246-834-150 Students.
- WAC 246-834-170 Reports to the department of health by accredited midwifery educational programs.
- WAC 246-834-180 Application for accreditation.
- WAC 246-834-190 School survey visits.
- WAC 246-834-200 Appeal of department of health decisions.
- WAC 246-834-210 Closure of an accredited school of midwifery.
- WAC 246-834-220 Midwife-in-training program, credit toward educational requirements for licensure.
- WAC 246-834-230 Midwife-in-training (MIT) program—Preceptor qualifications.
- WAC 246-834-240 Trainee permit for midwife-in-training program.
- WAC 246-834-260 General provisions.
- WAC 246-834-270 Mandatory reporting.
- WAC 246-834-280 Health care institutions.
- WAC 246-834-290 Midwifery associations or societies.
- WAC 246-834-310 Health care service contractors and disability insurance carriers.
- WAC 246-834-320 Professional liability carriers.
- WAC 246-834-330 Courts.
- WAC 246-834-340 State and federal agencies.

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-18-090.

Title of Rule and Other Identifying Information: Law enforcement officers' and firefighters' plan 2 (LEOFF [plan] 2) disaster coverage death and disability benefits.

Hearing Location(s): Department of Retirement Systems, 6835 Capitol Boulevard S.E., Conference Room 115, Tumwater, WA 98502, on Tuesday, April 25, 2017, at 2:30 p.m.

Date of Intended Adoption: April 25, 2017.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, email jilenes@drs.wa.gov, fax (360) 753-3166, by April 24, 2017, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Jilene Siegel by April 20, 2017, TTY (866) 377-8895 or (360) 586-5450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To implement chapter 115, Laws of 2016 (SB 6263), which provides enhanced benefits for a LEOFF Plan 2 member who dies or is disabled before returning to LEOFF employment, after leaving membership to enter federal service in response to a natural disaster or other emergency.

Statutory Authority for Adoption: RCW 41.50.050(5).

Statute Being Implemented: RCW 41.26.470, 41.26.510, 41.26.520.

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

Name of Agency Personnel Responsible for Implementation: Dave Nelsen, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7304.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable. These rules do not impact small businesses and are not being submitted by the state board of education.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not listed in RCW 34.05.328 as required to prepare a cost-benefit analysis.

March 21, 2017  
 Jilene Siegel  
 Rules Coordinator

**AMENDATORY SECTION** (Amending WSR 16-08-007, filed 3/24/16, effective 4/24/16)

**WAC 415-104-011 Definitions.** All definitions in RCW 41.26.030 and WAC 415-02-030 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.26 RCW are defined in this chapter.

(1) **Commissioned** means that an employee is employed as an officer of a general authority Washington law enforce-

ment agency and is empowered by that employer to enforce the criminal laws of the state of Washington.

(2) **Director of public safety** means a person who is employed on or after January 1, 1993, by a city or town on a full-time, fully compensated basis to administer the programs and personnel of a public safety department.

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a director of public safety.

(3) **Elective employer** means the employer of the LEOFF Plan 1 elected official during the member's leave of absence from the LEOFF employer for the purpose of serving in elective office.

(4) **Full-time employee** means an employee who is normally expected to earn basic salary from an employer for a minimum of one hundred sixty hours in a calendar month.

(5) **Fully compensated employee** means an employee who is normally expected to earn a basic monthly salary no less than one hundred sixty times the state minimum hourly wage. Nominal sums including, but not limited to, stipends or ancillary benefits such as insurance or leave accrual, provided to volunteer firefighters are not compensation for the purpose of determining whether a firefighter is fully compensated.

(6) **Left the employ of an employer** as used in RCW 41.26.470, 41.26.510, and 41.26.520 means any break in employment, whether formally separated or not formally separated, due to service in the uniformed services, national guard, military reserves, federal emergency management agency, or national disaster medical system of the United States Department of Health and Human Services.

(7) **LEOFF** means the law enforcement officers' and firefighters' retirement system established by chapter 41.26 RCW.

~~((7))~~ (8) **LEOFF employer** means the employer, as defined in RCW 41.26.030, who employs the member as a law enforcement officer or firefighter.

~~((8))~~ (9) **LEOFF Plan 1 elected official** means a LEOFF Plan 1 member who is a civil service employee on leave of absence because he or she has been elected or appointed to an elective public office and who chooses to preserve retirement rights as an active LEOFF member under the procedure described in this chapter.

~~((9))~~ (10) **Performing service** as used in RCW 41.26.470, 41.26.510, and 41.26.520 means engaging in activities in response to a disaster, major emergency, special event, federal exercise, or official training after having left the employ of an employer as described in subsection (6) of this section.

**(11) Plan 1 and Plan 2.**

(a) "Plan 1" means the law enforcement officers' and firefighters' retirement system providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(b) "Plan 2" means the law enforcement officers' and firefighters' retirement system providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

~~((10))~~ (12) **Public safety officer** means a person who is employed on or after January 1, 1993, on a full-time, fully

compensated basis by a city or town to perform both law enforcement and firefighter duties.

This definition applies only to cities or towns in which the population did not exceed ten thousand at the time the person became employed as a public safety officer.

~~((11))~~ (13) **Uniformed firefighter position** means a position which may only be filled by uniformed personnel as that term is defined in RCW 41.56.030 (7)(e) as in effect on July 1, 1995. A position only qualifies as a uniformed firefighter position if the employer has identified it as such for all purposes. An employer may designate a position as uniformed regardless of whether the employer is covered by public employees' collective bargaining under chapter 41.56 RCW.

NEW SECTION

**WAC 415-104-490 Death or disability while performing nonduty emergency management service.** (1) **If I die or become disabled while performing nonduty emergency management service, will I or my survivors be eligible for LEOFF benefits?** As a LEOFF Plan 2 member, you or your survivors may be eligible for nonduty disability or death benefits if you become disabled or die while you are performing nonduty emergency management service.

(2) **What are the criteria for eligibility?** To be eligible for benefits under this section, you must meet all of the following criteria:

(a) You must be determined by DRS to be eligible for disability benefits as described in RCW 41.26.470 and WAC 415-104-485, or death benefits as described in RCW 41.26-510.

(b) You must have "left the employ of an employer" to "perform service" as both of those terms are defined in WAC 415-104-011. You will need to show evidence, such as a DD214, proof of leave status from your LEOFF employer, orders, or other relevant sources of information.

(c) Your disability or death must have resulted from conditions or events that occurred while you were performing the service described in (b) of this subsection, on or after March 22, 2014.

(3) **Will I receive service credit for the emergency management service?**

(a) You or your survivors may apply for up to five years of service credit for your emergency management service:

(i) Up to the date of your separation from such service if you are disabled; or

(ii) Up to the date of your death if you die while performing service.

(b) There will be no cost to you for the service credit. The department will bill your employer for contributions. No interest will be charged.

(4) **How will the benefits be calculated?** If you are approved for benefits under this section, your benefit will be a minimum of ten percent of your average final salary, with an additional two percent for each year of service beyond five. Your benefit will not be reduced for early retirement.

(a) If your application for nonduty disability is approved under this section, the benefit will be calculated as described in RCW 41.26.470(11).



(b) If an application for death benefits filed by your survivors is approved under this section, the benefit will be calculated as described in RCW 41.26.510 (4)(c).

### WSR 17-07-131

#### PROPOSED RULES

#### DEPARTMENT OF ECOLOGY

[Order 16-08—Filed March 22, 2017, 11:20 a.m.]

#### Original Notice.

Preproposal statement of inquiry was filed as WSR 16-17-039.

**Title of Rule and Other Identifying Information:** Children's safe products—Reporting rule (CSPA reporting rule), chapter 173-334 WAC as authorized by the Children's Safe Products Act (CSPA) (chapter 70.240 RCW). This rule requires manufacturers to annually report the presence of chemicals of high concern to children (CHCC) in children's products to ecology. The CSPA reporting rule identifies the CHCCs and details the process for manufacturers to report to ecology.

**Hearing Location(s):** Ecology Headquarters Building, Room ROA-36, 300 Desmond Drive S.E., Lacey, WA 98503, combined with a webinar on April 25, 2017, at 10:00 a.m. PST. Presentation, question and answer session followed by the formal public hearing.

**Webinar:** Ecology is also offering this hearing via webinar. Webinars are an online meeting forum that you can attend from any computer using internet access.

**Comments:** Ecology will accept comments at the Lacey location and through the webinar.

**To join** the webinar click on the following link for more information and instructions: [Webinar registration](#).

**Date of Intended Adoption:** September 1, 2017.

**Submit Written Comments to:** Kara Steward, P.O. Box 47600, Olympia WA 98504-7600, email [kara.steward@ecy.wa.gov](mailto:kara.steward@ecy.wa.gov), fax (360) 407-6715, by May 12, 2017.

**Assistance for Persons with Disabilities:** Contact Ecology's ADA coordinator, Hanna Waterstrat, [hanna.waterstrat@ecy.wa.gov](mailto:hanna.waterstrat@ecy.wa.gov), voice (360) 407-7668, relay service 711, TTY 877-833-6341.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The 2016 Washington state legislature's amendment of chapter 70.240 RCW identified six flame retardants to be considered for inclusion on the CHCC's list in the CSP [CSPA]-reporting rule (chapter 173-334 WAC). Ecology and the Washington department of health used the CHCC criteria to evaluate these six flame retardants and other chemicals. The rule amendment proposes to add the six flame retardants, add fifteen other chemicals and delist three chemicals from the CHCC list in the rule (WAC 173-334-130). Ecology also proposes changes to streamline the rule.

**Reasons Supporting Proposal:** See Purpose of the Proposal above for this information.

**Statutory Authority for Adoption:** RCW 70.240.060 and 70.240.035.

**Statute Being Implemented:** Chapter 70.240 RCW.

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

**Name of Proponent:** Department of ecology, governmental.

**Name of Agency Personnel Responsible for Drafting:** Kara Steward, Ecology Headquarters, (360) 407-6250; **Implementation and Enforcement:** Tina Schaefer, Ecology Headquarters, (360) 407-6786.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

This small business economic impact statement (SBEIS) presents the:

- Compliance requirements of the proposed rule.
- Results of the analysis of relative compliance cost burden.
- Consideration of lost sales or revenue.
- Cost-mitigating action taken by ecology, if required.
- Small business and local government consultation.
- Industries likely impacted by the proposed rule.
- Expected net impact on jobs statewide.

A small business is defined by the Regulatory Fairness Act (RFA) (chapter 19.85 RCW) as having fifty or fewer employees. Estimated costs are determined as compared to the existing regulatory environment - the regulations in the absence of the rule. The SBEIS only considers costs to "businesses in an industry" in Washington state. This means that impacts, for this document, are not evaluated for nonprofit or government agencies.

The existing regulatory environment is called the "baseline" in this document. It includes only existing laws and rules at federal and state levels.

*This information is excerpted from ecology's complete set of regulatory analyses of the proposed rule. For complete discussion of the likely costs, benefits, minimum compliance burden, and relative burden on small businesses, see the regulatory analyses (Ecology publication no. 17-04-019., March 2017).*

#### COMPLIANCE REQUIREMENTS OF THE PROPOSED RULE, INCLUDING PROFESSIONAL SERVICES:

**Baseline:** The baseline for our analyses generally consists of existing rules and laws, and their requirements. This is what allows us to make a consistent comparison between the state of the world with and without the proposed rule amendments.

For this proposed rule making, the baseline includes:

- The existing rule: Chapter 173-334 WAC.
- The authorizing statute: Chapter 70.240 RCW, CSPA. This law explicitly includes:
  - Definitions for:
    - Children's products, children's cosmetics, children's jewelry.
    - High priority chemical, selected chemical names and acronyms.
    - Manufacturer.
    - Toy.
    - Trade association.

- Reporting requirements, including:
  - The name of the chemical used or produced and its chemical abstracts service (CAS) number.
  - A brief description of the product or the product component containing the chemical.
  - A description of the function of the chemical in the product.
  - The amount of the chemical used in each unit of the product or product component. The amount may be reported in ranges, rather than the exact amount.
  - The name and address of the manufacturer and the name, address, email, and phone number of a contact person for the manufacturer.
  - Any other information the manufacturer deems relevant to the appropriate use of the product.
- Civil penalties for violation.

**Proposed rule amendments:** The proposed rule amendments that differ from the baseline and are not *specifically* dictated in the authorizing statute or elsewhere in law or rule include:

- Adding nineteen chemicals to the CHCC list.
- Adding two chemicals that are present as mixtures.
- Changing grouped nonylphenol CHCCs to individual listings.
- Removing three chemicals from the CHCC list.
- Setting a single annual reporting date consistent with reporting in other states.
- Housekeeping, including:
  - Updating the reporting schedule to remove obsolete phase-in requirements.
  - Using the term "de minimis" to refer to existing minimum chemical levels.
  - Clarifying that resubmission of identical data (copy and paste) is sufficient, instead of a letter to ecology confirming no changes from the previous report.
  - Updating chemical names to be consistent with terminology in the product testing database.
  - Organizational revisions with no impact on requirements.

**Adding nineteen chemicals to the CHCC list:**

**Baseline:** The existing CHCC list in chapter 173-334 WAC does not include the proposed additions.

**Proposed:** The proposed rule amendments add the following chemicals (with associated CAS numbers) to the CHCC list.

**Chemicals added as CHCCs under the proposed rule amendments**

Chemical	CAS
Tris(4-tert-butylphenyl) phosphate (TBPP)	78-33-1
Bisphenol S (BPS)	80-09-1
Dicyclohexyl phthalate (DCHP)	84-61-7
Diisobutyl phthalate (DIBP)	84-69-5
Triphenyl phosphate (TPP)	115-86-6

Chemical	CAS
Tris (2,3-dibromopropyl) phosphate (TDBPP)	126-72-7
Tri-n-butyl phosphate (TNBP)	126-73-8
Dipentyl phthalate (DPP)	131-18-0
Perfluorooctanoic acid (PFOA)	335-67-1
Bisphenol F (BPF)	620-92-8
Ethylhexyl diphenyl phosphate (EHDPP)	1241-94-7
Tricresyl phosphate (TCP)	1330-78-5
Tris (1-chloro-2-propyl) phosphate (TCPP)	13674-84-5
Bis (2-ethylhexyl) tetrabromophthalate (TBPH)	26040-51-7
Bis(chloromethyl)propane-1,3-diyl tetrakis-(2-chloroethyl) bis(phosphate) (V6)	38051-10-4
Isopropylated triphenyl phosphate (IPTPP)	68937-41-7
Decabromodiphenyl ethane (DBDPE)	84852-53-9
Short-chain chlorinated paraffins (SCCP)	85535-84-8
2-ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB)	183658-27-7

**Expected impact:** Manufacturers of children's products containing the added chemicals would need to report information about these chemicals in their products.

This will likely result in additional costs of identifying the concentration of these chemicals in their products (using new testing, knowledge of product manufacturing processes, or testing for compliance with other regulations) and reporting this additional information.

This will likely also result in informational benefits for these nineteen chemicals, including increasing consumer awareness and government decision making, reducing potential health impacts and litigation, and improving industry understanding of the presence of CHCCs across the supply chain.

**Adding two chemicals present as mixtures:**

**Baseline:** The existing CHCC list in chapter 173-334 WAC does not include the proposed additions.

**Proposed:** The proposed rule amendments add the following mixture chemicals (with associated CAS numbers) to the CHCC list.

**Chemicals present in mixtures added as CHCCs under the proposed rule amendments**

Chemical	CAS
Chlorinated paraffins	108171-26-2
Butylated triphenyl phosphate	220352-35-2

**Expected impact:** Manufacturers of children's products containing the added chemicals would need to report information about these chemicals in their products.

This is not likely to result in additional costs of identifying the concentration of these chemicals in children's products because these chemicals are present in mixtures with two of the proposed chemicals identified in section 2.3.1. Testing products for short-chain chlorinated paraffins (CAS 85535-84-8) would also identify the presence of chlorinated paraffins (CAS 108171-26-2). Testing products for Tris(4-tert-butylphenyl) phosphate (CAS 78-33-1) would also identify the presence of butylated triphenyl phosphate (CAS 220352-35-2).

This will likely result in informational benefits for these two chemicals, including increasing consumer awareness and informing government decision making, reducing potential health impacts and litigation, and improving industry understanding of the presence of these CHCCs across the supply chain.

#### Changing some grouped CHCCs to individual listings:

**Baseline:** The existing CHCC list in chapter 173-334 WAC includes CAS number 104-40-5: "4-Nonylphenol; 4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3."

**Proposed:** The proposed rule amendments separate the above single chemical listing into three individual chemical listings.

#### Chemicals listed as separate CHCCs under the proposed rule

Chemical	CAS
4-Nonylphenol	104-40-5
Nonyl phenol	25154-52-3
4-Nonyl phenol (NP) branched	84852-15-3

**Expected impact:** Because the baseline rule only listed a single CAS number for the grouped CHCC chemicals (despite listing them separately in the chemical description), manufacturers have likely been testing for and reporting only the one chemical identified by the CAS number 104-40-5.

Listing the three chemicals separately, by individual CAS numbers, will likely result in manufacturers of children's products needing to identify two additional chemicals in their products (using new testing, knowledge of product manufacturing processes, or testing in compliance with other regulations), and reporting this information.

This will likely also result in informational benefits for the two chemicals listed separately in the proposed rule. Benefits could include:

- Informing consumer and government decision making.
- Reducing potential health impacts and litigation.
- Improving industry understanding of the presence of CHCCs across the supply chain.

#### Removing three chemicals from the CHCC list:

**Baseline:** The existing CHCC list in chapter 173-334 WAC includes the chemicals below.

#### Chemicals removed from the CHCC list under the proposed rule

Chemical	CAS
Phthalic anhydride	85-44-9
Octamethylcyclotetrasiloxane	556-67-2
Molybdenum & molybdenum compounds	7439-98-7

**Proposed:** The proposed rule amendments remove the above chemicals from the CHCC list. The updated rule language identifies these three chemicals as removed from the CHCC list in 2017, the expected adoption year of the proposed rule.

**Expected impact:** Manufacturers of children's products containing the chemicals removed from the CHCC list would no longer need to report on these chemicals in their products.

This will likely result in a cost-savings (benefit), as the three chemicals proposed for removal would no longer need to be tested or reported by manufacturers. These chemical[s] no longer meet the criteria used to identify CHCCs for this rule, based on updated scientific information. We note that ecology has identified the removal of CHCCs as incurring a cost in past rule revisions, but this was for a chemical that was only identified as less toxic.

#### Setting single annual reporting dates:

**Baseline:** The existing rule (chapter 173-334 WAC) contains phased-in reporting deadlines that include mid-year reporting in February for specific categories of manufacturers for certain types of products, as well as reporting in August for all other manufacturers for all other products.

**Proposed:** The proposed rule amendments eliminate reporting deadlines and sets an annual reporting date of January 31.

**Expected impact:** The proposed rule amendments could result in minor benefits arising from removing the mid-year reporting dates, streamlining compliance with the rule and making it more consistent with similar reporting programs in other states, such as Oregon's January 1 reporting date.

#### Housekeeping:

**Baseline:** The baseline for housekeeping is the existing rule.

**Proposed:** The proposed rule amendments change the organization and contents of the rule language that are intended to streamline or clarify the rule, without material change to its requirements, including:

- Updating the reporting schedule to remove obsolete phase-in requirements.
- Using the term "de minimis" to refer to existing minimum chemical reporting levels.
- Clarifying that resubmission of identical data (copy and paste) is sufficient, instead of a letter to ecology confirming no changes from the previous report.
- Updating chemical names to be consistent with terminology in the product testing database.
- Organizational revisions.

**Expected impact:** Housekeeping changes are not expected to affect rule requirements or how manufacturers comply with the rule.

**COSTS OF COMPLIANCE: EQUIPMENT**

Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of equipment.

**COSTS OF COMPLIANCE: SUPPLIES**

Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of supplies.

**COSTS OF COMPLIANCE: LABOR**

Compliance with the proposed rule, compared to the baseline, is not likely to impose additional costs of labor.

**COSTS OF COMPLIANCE: PROFESSIONAL SERVICES**

**Total annual costs:**

We estimated total annual costs of testing for nineteen proposed additional CHCCs, of approximately:

- Low: \$58 thousand.
- High: \$401 thousand.

We estimated total annual costs of testing for separating one CHCC listing into three, of approximately:

- Low: \$24 thousand.
- High: \$50 thousand.

These costs sum to approximate total annual costs of:

- Low: \$82 thousand.
- High: \$451 thousand.

**Total present value costs:**

Over twenty years, the total present value costs of testing created by adding the proposed nineteen new chemicals to the CHCC list are estimated to be:

- Low: \$1.0 million.
- High: \$7.2 million.

Over twenty years, the total present value costs of testing created by separating one nonylphenol CHCC listing into three CHCCs is estimated to be:

- Low: \$433 thousand.
- High: \$895 thousand.

These costs sum to total twenty year present value costs of:

- Low: \$1.4 million.
- High: \$8.1 million.

**COSTS OF COMPLIANCE: ADMINISTRATIVE COSTS**

Where applicable, ecology estimates administrative costs ("overhead") as part of the cost of labor and professional services, above.

**COMPARISON OF COMPLIANCE COST FOR SMALL VERSUS LARGE BUSINESSES:** Ecology calculated the estimated per-entity costs to comply with the proposed rule amendments, based on the costs estimated in Chapter 3. In this section, ecology summarizes compliance cost per employee at affected businesses of different sizes.

We used Washington employment security department data for employment distributions at the industry level. This data is reported at the facility level at businesses in Washing-

ton, and therefore is likely an underestimate of the number of employees at the highest owner-operator level of a company. The average affected small business likely to be covered by the proposed rule amendments employs between three and thirteen people, depending on which industry incurs compliance costs based on its specific product line in a given year. The largest ten percent of affected businesses employ an average of between eighty-nine and four thousand five hundred twenty-one people, depending on which industry incurs compliance costs based on its specific product line in a given year.

Based on total twenty year present value (PV) cost estimates from Chapter 3 and cost-savings estimates from Chapter 4, we estimated the following compliance costs per employee. The ranges depend on which specific industry incurs compliance costs, and whether its compliance is related to the nineteen chemicals proposed for addition to the CHCC list, the proposed individual listing of nonylphenols currently listed as a group, or the proposed removal of three chemicals from the CHCC list. Negative numbers indicate a reduction in compliance costs.

**20-year PV change in compliance costs per employee**

		Increased 20-Year Compliance Costs per Employee		Reduced 20-Year Compliance Costs per Employee	
		Small Business	Largest Businesses	Small Business	Largest Businesses
Low	Min	\$106,419	\$310	\$934,966	\$2,721
	Max	\$408,333	\$15,733	\$3,587,500	\$138,230
High	Min	\$615,709	\$1,792	\$1,869,932	\$5,441
	Max	\$2,362,500	\$91,029	\$7,175,000	\$276,459

We conclude that the proposed rule amendments are likely to have disproportionate impacts on small businesses, and therefore ecology must include elements in the proposed rule to mitigate this disproportion, as far as is legal and feasible.

Note that these estimates are based on estimated testing for reporting, and testing is not required under the baseline or proposed rule amendments. Note also that reporting costs are driven by the authorizing statute, which specifically lists reporting requirements.

**CONSIDERATION OF LOST SALES OR REVENUE:** Businesses that would incur costs could experience reduced sales or revenues if compliance with this rule would significantly affect the prices of the goods they sell. The degree to which this could happen is strongly related to each business's production and pricing model (whether additional lump-sum costs significantly affect marginal costs), as well as the specific attributes of the markets in which they sell goods, including the degree of influence of each firm on market prices, as well as the relative responsiveness of market demand to price changes.

The market for children's products is likely to vary in its elasticity. Toys and games, or kitchen/dining products, for example, are likely to have more substitutes, making it more difficult for manufacturers and sellers to pass compliance costs on to consumers through increased prices. Higher prices for toy and game products whose manufacturers incur addi-

tional compliance costs under the proposed rule amendments are more likely to result in consumers substituting other products, potentially affecting manufacturers' sales or revenue. Children's products with specific required attributes are likely to have more uniform product availability and limited substitutes (e.g., car seats). If manufacturers of such products incur compliance costs under the proposed rule amendments, it is likely relatively easier for them to pass costs on to consumers without having those consumers purchase another product instead. In which case, they would be less likely to see losses in sales or revenue.

**MITIGATION OF DISPROPORTIONATE IMPACT:** The RFA (RCW 19.85.030(2)) states that:

Based upon the extent of disproportionate impact on small business identified in the statement prepared under RCW 19.85.040, the agency shall, where legal and feasible in meeting the stated objectives of the statutes upon which the rule is based, reduce the costs imposed by the rule on small businesses. The agency must consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- (a) Reducing, modifying, or eliminating substantive regulatory requirements;
- (b) Simplifying, reducing, or eliminating recordkeeping and reporting requirements;
- (c) Reducing the frequency of inspections;
- (d) Delaying compliance timetables;
- (e) Reducing or modifying fine schedules for noncompliance; or
- (f) Any other mitigation techniques including those suggested by small businesses or small business advocates.

Ecology considered all of the above options, and included the following legal and feasible elements in the proposed rule amendments that reduce costs. In addition, ecology considered the alternative rule contents discussed in Chapter 6, and excluded those elements that would have imposed excess compliance burden on businesses.

The baseline and proposed rule amendments include elements that intend to reduce disproportionate burden on small businesses. This includes allowing multiple options for determining the CHCC content of children's products, including:

- Supply chain knowledge.
- Knowledge of the manufacturing process.
- Testing only if the manufacturer chooses to do so.

Because smaller businesses likely operate in smaller volumes, they may inherently incur lower compliance costs than estimated in this analysis. This would not be reflected in our ranges of single estimates applied to all sizes of manufacturer.

Ecology's scope for reducing burden on small businesses via the examples listed under the RFA (items (a) - (f) above) was limited by the authorizing statute, scope of the rule, and scope of this rule making:

- The authorizing statute sets the standards for reporting content, and the rule does not require businesses to reduce their use of CHCCs (which would require changes to manufacturing processes or practices and quality assurance).

- Independent ecology testing is performed instead of manufacturer inspections.
- The rule is not new, and manufacturers of children's products have been aware of, and complying with, the rule for many years.
- Fines for noncompliance are set by the authorizing statute.

**SMALL BUSINESS AND LOCAL GOVERNMENT CONSULTATION:** Ecology involved small businesses and local government in its development of the proposed rule amendments, using:

- CSPA Listserv - six hundred ninety-three registered email addresses - so far sending thirteen listserv messages since August 2016 (a few were corrections).
  - Four hundred business email addresses, and thirty-five business associations.
  - Five Washington state local governments, ninety-five ".gov" addresses, seventeen ".us" addresses.
  - Fourteen nongovernmental organizations, seven toxic free future addresses, fifteen addresses at educational institutions.
- Stakeholder meeting October 25, 2016. In person and webinar. Agenda: Scope of the rule, rule-making process, chemical evaluation process. Fifty-eight attendees.
  - About twenty-five business attendees, eleven representatives from business associations. Associations included:
    - Alkylphenols & Ethoxylates Research Council
    - American Chemistry Council
    - Fashion Jewelry and Accessories Trade Assn (FJATA)
    - International Molybdenum Assn (IMOA)
    - Juvenile Products Manufacturers Assn.
    - Personal Care Products Council
    - Toy Industry Association
  - One local government representative, eleven state government representatives. Attendees included representatives from:
    - King County local hazardous waste management program
    - Vermont
    - Oregon
    - Maine
    - WA ecology
  - Four nongovernmental organization representatives and one educational institution. Attendees representing Toxic Free Future and Evergreen College.
- Stakeholder webinar January 4, 2017. Agenda: Updated rule language, Q&A for rule language, chemical list changes, and rule-making process. Seventy-two attendees.
  - Thirty-eight businesses and eleven business associations. Associations included:
    - Alkylphenols & Ethoxylates Research Council
    - American Chemistry Council
    - Association of Washington Business
    - CompTIA - Computing Technology Industry Association
    - FJATA

- FluoroCouncil
- IMOA
- Personal Care Products Council
- Toy Industry Association
- Twenty-three other representatives including:
  - City of Everett
  - California Department of Toxic Substances Control
  - Maine Department of Environmental Protection
  - WA department of health
  - WA department of ecology
  - Toxic Free Future
  - Legal representatives
- Web pages: Regularly updated with current status of rule making. Listserv messages sent when significant updates were posted to the web site.

**NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES OF INDUSTRIES IMPACTED BY THE PROPOSED RULE:** The proposed rule is likely to impact the following NAICS codes. These codes were selected based on products in which the proposed additions, separate listings, or removals of chemicals from the CHCC list are likely to be found.

**NAICS codes of likely impacted industries**

NAICS Code	Industry Description
313210	Broadwoven fabric mills
313230	Nonwoven fabric mills
314120	Curtain and linen mills
314910	Textile bag and canvas mills
315210	Cut and sew apparel contractors
315220	Men's and boys' cut and sew apparel manufacturing
315240	Women's, girls', and infants' cut and sew apparel manufacturing
315990	Apparel accessories and other apparel manufacturing
316210	Footwear manufacturing
323111	Commercial printing (except screen and books)
323113	Commercial screen printing
325620	Toilet preparation manufacturing
326150	Urethane and other foam product (except polystyrene) manufacturing
337125	Household furniture (except wood and metal) manufacturing
339910	Jewelry and silverware manufacturing
339930	Doll, toy, and game manufacturing
423220	Home furnishing merchant wholesalers

**IMPACT ON JOBS:** Ecology used the Washington state office of financial management's 2007 Washington input-output model to estimate the impact of the proposed rule amendments on jobs in the state. The model accounts for inter-industry impacts and spending multipliers of earned income and changes in output.

The proposed rule amendments will result in transfers of money within and between industries. Industries spending compliance costs on testing are assumed to transfer their

expenditures to the income of the laboratory testing industry (NAICS 541380, Testing Laboratories). However, based on ecology experience, and to maintain conservative estimates, we assumed the labs used are outside of Washington. We therefore estimated jobs [job] impacts based only on changes to compliance costs, without transfers to another in state industry.

These prospective changes in overall employment in the state are the sum of multiple small increases and decreases across all industries in the state.

Under the estimated increased compliance costs created by the proposed rule amendments, the Washington economy could experience a loss of one to five jobs in each year (twenty to one hundred full-time employees, FTEs, over twenty years), depending on which industry experiences increased compliance costs.

Under the estimated reduced compliance costs created by the proposed rule amendments, the Washington economy could experience a gain of four to seventeen jobs in each year (eighty to three hundred forty FTEs over twenty years), depending on which industry experiences reduced compliance costs.

A copy of the statement may be obtained by contacting Kara Steward, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6250, fax (360) 407-6715, email [kara.steward@ecy.wa.gov](mailto:kara.steward@ecy.wa.gov).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kara Steward, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6250, fax (360) 407-6715, email [kara.steward@ecy.wa.gov](mailto:kara.steward@ecy.wa.gov).

March 20, 2017  
 Polly Zehm  
 Deputy Director

**AMENDATORY SECTION** (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-010 Introduction.** Under the Children's Safe Product Act (CSPA), chapter 70.240 RCW, manufacturers of children's products are required to notify the department of ecology when a chemical of high concern to children (CHCC) is present in their products or, if the product contains more than one component, each product component.

The presence of a CHCC in a children's product does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws. The reported information will help fill a data gap that exists for both consumers and agencies.

The CSPA requires the department of ecology in consultation with the department of health to identify a list of chemicals for which manufacturers of children's products are required to ((provide notice)) report. The CSPA specifies both the characteristics of these chemicals and the ((notice)) reporting requirements.

AMENDATORY SECTION (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-020 What is the purpose of this chapter?** The purpose of this chapter is to:

- (1) Establish the list of chemicals for which manufacturer ~~((notice))~~ reporting is required;
- (2) Establish what manufacturers of children's products must do to comply with the ~~((notice))~~ reporting requirements created by the CSPA; and
- (3) Clarify the enforcement processes the department of ecology will use if manufacturers fail to ~~((provide notice))~~ report as required.

AMENDATORY SECTION (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-040 What definitions apply to terms used in this chapter?** "Chemical Abstracts Service number" means the number assigned for identification of a particular chemical by the Chemical Abstracts Service, a service of the American Chemical Society that indexes and compiles abstracts of worldwide chemical literature called *Chemical Abstracts*.

"CHCC list" means the reporting list of chemicals that the department has identified as high priority chemicals of high concern for children.

"Child" means an individual under twelve.

"Children's product" has the same meaning as defined in RCW 70.240.010.

(a) For the purposes of this rule, children's products only include products that are sold, or are to be offered for sale, to consumers in the state of Washington.

(b) In addition to the exemptions specified in RCW 70.240.010, for the purposes of this rule, "children's product" does not include over the counter drugs, prescription drugs, food, dietary supplements, packaging, medical devices, or products that are both a cosmetic and a drug regulated by the Food and Drug Administration.

(c) A product label that includes usage instructions for use of a product that apply to children does not in and of itself establish that the product is a children's product.

"Contaminant" means trace amounts of chemicals that are incidental to manufacturing. They serve no intended function in the product component. They can include, but are not limited to, unintended by-products of chemical reactions during the manufacture of the product component, trace impurities in feed-stock, incompletely reacted chemical mixtures, and degradation products.

"De minimis level" means for a chemical that is an intentionally added chemical, a concentration below the practical quantification limit; or for a chemical that is a contaminant, a concentration below 100 parts per million.

"Department of health" means the Washington state department of health.

"Intentionally added chemical" means a chemical in a product that serves an intended function in the product component.

"Internal component" means a children's product component that during reasonably foreseeable use and abuse of the

product would not come into direct contact with the child's skin or mouth.

"Manufacturer" means the producer, importer, or wholesale domestic distributor of a children's product and is more specifically defined in RCW 70.240.010. For the purposes of this rule, a retailer of a children's product is not a manufacturer unless it is also the producer, manufacturer, importer, or domestic distributor of the product.

"Mouthable" means able to be brought to the mouth and kept in the mouth by a child so that it can be sucked and chewed. If the product can only be licked, it is not able to be placed in the mouth. If a product or part of a product in one dimension is smaller than five centimeters, it can be placed in the mouth.

"Practical quantification limit (PQL)" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions. This value is based on scientifically defensible, standard analytical methods. The value for a given chemical could be different depending on the matrix and the analytical method used.

"Product category" means the "brick" level of the GS1 Global Product Classification (GPC) standard, which identifies products that serve a common purpose, are of a similar form and material, and share the same set of category attributes.

"Product component" means a uniquely identifiable material or coating (including ink or dye) that is intended to be included as a part of a finished children's product.

AMENDATORY SECTION (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-050 What is the purpose of the CHCC list?** The CHCC list identifies the chemicals to which the ~~((notice))~~ reporting requirements apply. A manufacturer must notify the department in accordance with WAC 173-334-080 if a chemical on the CHCC list is present in a children's product component. The current CHCC list is set forth in WAC 173-334-130.

AMENDATORY SECTION (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-070 How will the department identify chemicals for inclusion in the CHCC list?** (1) The department will consult with the department of health during the modification of the CHCC list.

(2) A chemical that the department determines to meet all of the following criteria may be included on the CHCC list:

(a) The toxicity, persistence, or bioaccumulativity criteria specified in RCW 70.240.010~~((6))~~ (9); and

(b) The exposure criteria specified in RCW 70.240.-030(1).

(3) The department will consider both the parent chemical and its degradation products when deciding whether a chemical meets the criteria of this section. If a parent chemical does not meet the criteria in this section but degrades into

chemicals that do, the parent chemical may be included on the CHCC list.

(4) A person may submit a petition for consideration by the department to add a chemical to or remove a chemical from the CHCC list. The petition must provide the following information:

- (a) Chemical Abstracts Service registry number;
- (b) Chemical prime name; and
- (c) Credible peer-reviewed scientific information documenting why the chemical meets or fails to meet the criteria required for inclusion on the list.

(5) The department shall review petitions in accordance with RCW 34.05.330, the Administrative Procedure Act.

AMENDATORY SECTION (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-080 What must the manufacturer include in its ~~((notice))~~ report to the department?** (1) The ~~((notice))~~ report required by RCW 70.240.040 must be filed annually with the department in accordance with the following:

(a) Each chemical on the CHCC list that is an intentionally added chemical present in a product component must be reported at any concentration above the PQL.

(b) Each chemical on the CHCC list that is a contaminant present in a product component must be reported at any concentration above 100 ppm. A manufacturer need not file a ~~((notice))~~ report with respect to any CHCC that occurs in a product component only as a contaminant if the manufacturer had in place a manufacturing control program and exercised due diligence to minimize the presence of the contaminant in the component.

(2) The ~~((notice))~~ report must include all of the following information:

(a) The name of the CHCC and its Chemical Abstracts Service registry number.

(b) The product category or categories in which it occurs.

(c) The product component or components within each product category in which it occurs.

(d) A brief description of the function, if any, of the CHCC in each product component within each product category.

(e) The total amount of the CHCC by weight contained in each product component in each children's product sold or offered for sale within each product category. The amount may be reported in ranges, rather than the exact amount. If there are multiple CHCC values for a given component in a particular product category, the manufacturer must use the largest value for reporting.

For the purpose of this rule, the reporting ranges are as follows:

(i) Equal to or more than the PQL but less than 100 ppm (0.01%);

(ii) Equal to or more than 100 ppm (0.01%) but less than 500 ppm (0.05%);

(iii) Equal to or more than 500 ppm (0.05%) but less than 1,000 ppm (0.10%);

(iv) Equal to or more than 1,000 ppm (0.10%) but less than 5,000 ppm (0.5%); or

(v) Equal to or more than 5,000 ppm (0.5%) but less than 10,000 ppm (1.0%); or

(vi) Equal to or more than 10,000 ppm (1.0%).

(f) The name and address of the reporting manufacturer or trade organization and the name, address and phone number of the contact person for the reporting manufacturer or trade organization. When a trade organization is the reporting party, the report must include a list of the manufacturers on whose behalf the trade organization is reporting, and all of the information that would otherwise be required of the individual manufacturers.

(g) Any other information the manufacturer deems relevant to the appropriate use of the product.

(3) Reporting parties are not required to include either:

(a) Any specific formula information; or

(b) The specific name and address of the facility which is responsible for the introduction of a CHCC into a children's product or product component.

(4) If a reporting party believes the information being provided is confidential business information (CBI), in whole or in part, it may request that the department treat the information as confidential business information as provided in RCW 43.21A.160. The department will use its established procedures to determine how it will handle the information.

(5) The department will ~~((make available the current version of the web form))~~ maintain an online reporting database to be used for reporting on CHCCs. This same ~~((form))~~ database may be used by the reporting party to flag the submitted information it thinks should be treated as CBI. ~~((The web form must be used when providing notification.))~~

(6) Any information that is not determined to be confidential business information will be available to the public. As resources allow, the department will post this information on the department's web site.

AMENDATORY SECTION (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-090 Who is required to ~~((provide notice))~~ report to the department?** (1) The manufacturer of a children's product, or a trade organization on behalf of its member manufacturers, must ~~((provide notice))~~ report to the department that the manufacturer's children's product component contains a chemical on the CHCC list.

(2) The definition of manufacturer in RCW 70.240.010 includes any person or entity that produces a children's product, any importer that assumes ownership of a children's product, and any domestic distributor of a children's product. However, it is only necessary for one person or entity to ~~((provide notice))~~ report with respect to a particular children's product.

The following hierarchy will determine which person or entity the department will hold primarily responsible for ensuring that the department receives a complete, accurate, and timely ~~((notice))~~ report for the children's product:

(a) The person or entity that had the children's product manufactured, unless it has no presence in the United States.

(b) The person or entity that marketed the children's product under its name or trademark, unless it has no presence in the United States.



(c) The first person or entity, whether an importer or a distributor, that owned the children's product in the United States.

AMENDATORY SECTION (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-100** ~~((What time period is covered by the notice?))~~ **When must manufacturers report and for what time period?** ~~((Manufacturers must provide notice as required by WAC 173-334-110 on an annual basis for children's products that have been manufactured for sale in Washington during the twelve month period that precedes the applicable due date for first notices set out in WAC 173-334-110(2).))~~ (1) On January 31, 2019, and annually thereafter, a manufacturer of a children's product sold or offered for sale in Washington that contains a CHCC listed in WAC 173-334-130 in an amount above a de minimis level must submit the information detailed in WAC 173-334-080 to the department.

(a) The report submitted on January 31, 2019, applies to children's products sold or offered for sale in Washington between September 1, 2017, and December 31, 2018.

(b) A manufacturer of a children's product containing a CHCC above the de minimis level may request an extension for submission of the report required on January 31, 2019, if this would be the first report required by the manufacturer and the manufacturer will be reporting more than one product or chemical.

(c) Reports submitted on January 31, 2020, and annually thereafter, apply to children's products sold or offered for sale during the prior calendar year.

(2) If the reporting party determines that there has been no change in the information required to be reported since the prior annual ~~((notice))~~ report, the party ~~((may submit a written statement indicating that the previous reported data is still valid, in lieu of a new duplicate complete notice))~~ must copy the prior year's report and resubmit the same data into the online reporting database.

(3) If a CHCC is subsequently removed from the children's product component for which ~~((notice))~~ a report was given, the manufacturer may ~~((provide notice))~~ report to the department. Such updated ~~((notices))~~ reports will be documented in the department's records.

(4) Annual reporting for internal components will not be required, except by amendment of this rule.

AMENDATORY SECTION (Amending WSR 11-16-008, filed 7/21/11, effective 8/21/11)

**WAC 173-334-120 How will this chapter be enforced?** (1) The department may collect children's products subject to possible reporting, and analyze their components for the presence of CHCCs. If the department finds that a children's product component contains a chemical on the CHCC list that the manufacturer either has not reported, or has reported at a lesser amount, the department will notify the manufacturer in writing. The department will then afford the manufacturer forty-five days from receipt of the department's notification to respond to the findings before the department takes further enforcement action.

In determining whether a violation of the CSPA or these rules has occurred, the department will consider the manufacturer's timely explanation as to why it did not report the presence or accurate amount of the CHCC in the product component. If the manufacturer asserts that the CHCC is present in the component only as a contaminant, and that the manufacturer did not report the CHCC's presence based on WAC 173-334-080 (1)(b), then the manufacturer must present evidence that it conducted a reasonable manufacturing control program for the CHCC contaminant and exercised due diligence as described in subsections (2) and (3) of this section.

If the manufacturer contests the department's findings regarding the presence or amount of the CHCC in the product component, the manufacturer may further analyze the component in question for presence of CHCC and provide the department with a copy of its own laboratory findings for the component.

(2) Manufacturing control program. A reasonable manufacturing control program must include industry best manufacturing practices for the minimization of the CHCC in the children's product. Those practices may include, but are not limited to, methods and procedures for meeting relevant federal regulations, International Standards Organization (ISO) requirements, American Society for Testing and Materials (ASTM) standards, and other widely established certification or standards programs.

(3) Due diligence. Actions demonstrating due diligence in ensuring the effectiveness of a manufacturing control program may include the use and enforcement of contract specifications, procedures to ensure the quality/purity of feedstock (whether raw or recycled), the use and enforcement of contract specifications for manufacturing process parameters (e.g., drying and curing times when relevant to the presence of high priority chemicals in the finished children's product components), periodic testing for the presence and amount of CHCCs, auditing of contractor or supplier manufacturing processes, and other practices reasonably designed to ensure the manufacturer's knowledge of the presence, use, and amount of CHCCs in its children's product components.

(4) If the department determines based on the process described in subsection (1) of this section, or on other grounds, that a manufacturer has violated a requirement of the CSPA or these rules, it may require the manufacturer to pay a civil penalty. A manufacturer of children's products in violation of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation in the case of a first offense. Manufacturers who are repeat violators are subject to a civil penalty not to exceed ten thousand dollars for each repeat offense. Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.105D.070.

(5) A single violation consists of a manufacturer failing to provide the required ~~((notice))~~ report for the presence and accurate amount of each CHCC, in each applicable product category, in each applicable product component.

AMENDATORY SECTION (Amending WSR 13-21-123, filed 10/22/13, effective 11/22/13)

**WAC 173-334-130 The reporting list of chemicals of high concern to children (CHCC list).** (1) The current list of CHCCs identifies the chemicals that must be reported to the department in accordance with WAC 173-334-080 if a chemical on the CHCC list is present in a children's product component.

(2) Changes to the list of CHCCs occurs only by amendment of this rule as required by WAC 173-334-060. The year a CHCC was added to the list by rule amendment is provided in the third column. Chemicals removed by rule amendment are identified at the end of this list.

CAS	Chemical	<u>Year Added</u>
50-00-0	Formaldehyde	<u>2011</u>
62-53-3	Aniline	<u>2011</u>
62-75-9	N-Nitrosodimethylamine	<u>2011</u>
71-43-2	Benzene	<u>2011</u>
75-01-4	Vinyl chloride	<u>2011</u>
75-07-0	Acetaldehyde	<u>2011</u>
75-09-2	Methylene chloride	<u>2011</u>
75-15-0	Carbon disulfide	<u>2011</u>
<u>78-33-1</u>	<u>Tris(4-tert-butylphenyl) phosphate (TBPP)</u>	<u>2017</u>
78-93-3	Methyl ethyl ketone	<u>2011</u>
79-34-5	1,1,2,2-Tetrachloroethane	<u>2011</u>
79-94-7	Tetrabromobisphenol A (TBBPA)	<u>2011</u>
80-05-7	Bisphenol A (BPA)	<u>2011</u>
<u>80-09-1</u>	<u>Bisphenol S (BPS)</u>	<u>2017</u>
<u>84-61-7</u>	<u>Dicyclohexyl phthalate (DCHP)</u>	<u>2017</u>
84-66-2	Diethyl phthalate (DEP)	<u>2011</u>
<u>84-69-5</u>	<u>Diisobutyl phthalate (DIBP)</u>	<u>2017</u>
84-74-2	(( <u>Di-butyl</u> )) Di-n-butyl phthalate (DBP)	<u>2011</u>
84-75-3	(( <u>Di-n-Hexyl</u> )) Di-n-hexyl phthalate (DnHP)	<u>2011</u>
<u>((85-44-9</u>	<u>Phthalic anhydride))</u>	
85-68-7	Butyl benzyl phthalate (BBP)	<u>2011</u>
86-30-6	N-Nitrosodiphenylamine	<u>2011</u>
87-68-3	Hexachlorobutadiene	<u>2011</u>
94-13-3	Propyl paraben	<u>2011</u>
94-26-8	Butyl paraben	<u>2011</u>
95-53-4	2-Aminotoluene	<u>2011</u>
95-80-7	2,4-Diaminotoluene	<u>2011</u>

CAS	Chemical	<u>Year Added</u>
99-76-3	Methyl paraben	<u>2011</u>
99-96-7	(( <del>p-Hydroxybenzoic</del> )) 4-Hydroxybenzoic acid	<u>2011</u>
100-41-4	Ethylbenzene	<u>2011</u>
100-42-5	Styrene	<u>2011</u>
104-40-5	4-Nonylphenol(( <del>4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3</del> ))	<u>2011</u>
106-47-8	(( <del>para-Chloroaniline</del> )) 4-Chloroaniline	<u>2011</u>
107-13-1	Acrylonitrile	<u>2011</u>
107-21-1	Ethylene glycol	<u>2011</u>
108-88-3	Toluene	<u>2011</u>
108-95-2	Phenol	<u>2011</u>
109-86-4	2-Methoxyethanol	<u>2011</u>
110-80-5	Ethylene glycol monoethyl (( <del>ester</del> )) ether	<u>2011</u>
<u>115-86-6</u>	<u>Triphenyl phosphate (TPP)</u>	<u>2017</u>
115-96-8	Tris(2-chloroethyl) phosphate (TCEP)	<u>2011</u>
117-81-7	(( <u>Di-2-ethylhexyl</u> )) Di-(2-ethylhexyl) phthalate (DEHP)	<u>2011</u>
117-84-0	Di-n-octyl phthalate (DnOP)	<u>2011</u>
118-74-1	Hexachlorobenzene	<u>2011</u>
119-93-7	3,3'-Dimethylbenzidine and Dyes Metabolized to 3,3'-Dimethylbenzidine	<u>2011</u>
120-47-8	Ethyl paraben	<u>2011</u>
123-91-1	1,4-Dioxane	<u>2011</u>
<u>126-72-7</u>	<u>Tris (2,3-dibromopropyl) phosphate (TDBPP)</u>	<u>2017</u>
<u>126-73-8</u>	<u>Tri-n-butyl phosphate (TNBP)</u>	<u>2017</u>
127-18-4	(( <del>Perechloroethylene</del> )) Tetrachloroethene	<u>2011</u>
<u>131-18-0</u>	<u>Dipentyl phthalate (DPP)</u>	<u>2017</u>
131-55-5	Benzophenone-2 (Bp-2)(( <del>2,2',4,4'-Tetrahydroxybenzophenone</del> ))	<u>2011</u>
140-66-9	(( <del>4-tert-Octylphenol; 1,1,3,3-Tetramethyl-4-butylphenol</del> )) 4-Octylphenol	<u>2011</u>
140-67-0	Estragole	<u>2011</u>

<u>CAS</u>	<u>Chemical</u>	<u>Year Added</u>
149-57-5	2-Ethylhexanoic acid	<u>2011</u>
<del>((556-67-2</del>	<del>Octamethylcyclotetrasiloxane</del>	
<u>335-67-1</u>	<u>Perfluorooctanoic acid (PFOA)</u>	<u>2017</u>
608-93-5	<del>((Benzene, pentachloro))</del> <u>Pentachlorobenzene</u>	<u>2011</u>
<u>620-92-8</u>	<u>Bisphenol F (BPF)</u>	<u>2017</u>
842-07-9	C.I. solvent yellow 14	<u>2011</u>
872-50-4	N-Methylpyrrolidone	<u>2011</u>
1163-19-5	<del>((2,2',3,3',4,4',5,5',6,6'-))</del> <u>Decabromodiphenyl ether(∓) (BDE-209)</u>	<u>2011</u>
<u>1241-94-7</u>	<u>Ethylhexyl diphenyl phosphate (EHDPP)</u>	<u>2017</u>
<u>1330-78-5</u>	<u>Tricresyl phosphate (TCP)</u>	<u>2017</u>
1763-23-1	Perfluorooctanyl sulphonic acid <del>((and its salts;))</del> (PFOS) <u>and its salts</u>	<u>2011</u>
1806-26-4	<del>((Phenol, 4-octyl-))</del> <u>4-Octylphenol</u>	<u>2011</u>
5466-77-3	2-Ethyl-hexyl-4-methoxycinnamate	<u>2011</u>
7439-97-6	Mercury & mercury compounds including methyl mercury (22967-92-6)	<u>2011</u>
<del>((7439-98-7</del>	<del>Molybdenum &amp; molybdenum compounds</del>	
7440-36-0	Antimony & Antimony compounds	<u>2011</u>
7440-38-2	Arsenic & Arsenic compounds including arsenic trioxide (1327-53-3) & dimethyl arsenic acid (75-60-5)	<u>2011</u>
7440-43-9	Cadmium & cadmium compounds	<u>2011</u>
7440-48-4	Cobalt & cobalt compounds	<u>2011</u>
<u>13674-84-5</u>	<u>Tris (1-chloro-2-propyl) phosphate (TCPP)</u>	<u>2017</u>
<del>((∓))</del> 13674-87-8	<u>Tris(1,3-dichloro-2-propyl)phosphate (TDCPP)</u>	<u>2013</u>
25013-16-5	Butylated hydroxyanisole(∓) (BHA)	<u>2011</u>
<u>25154-52-3</u>	<u>Nonyl phenol</u>	<u>2011</u>
25637-99-4	Hexabromocyclododecane (HBCD)	<u>2011</u>

<u>CAS</u>	<u>Chemical</u>	<u>Year Added</u>
<u>26040-51-7</u>	<u>Bis (2-ethylhexyl) tetrabromophthalate (TBPH)</u>	<u>2017</u>
26761-40-0	Diisodecyl phthalate (DIDP)	<u>2011</u>
28553-12-0	Diisononyl phthalate (unbranched) (DINP)	<u>2011</u>
<u>38051-10-4</u>	<u>Bis(chloromethyl)propane-1,3-diyl tetrakis-(2-chloroethyl) bis(phosphate)(V6)</u>	<u>2017</u>
<u>68937-41-7</u>	<u>Isopropylated triphenyl phosphate (IPTPP)</u>	<u>2017</u>
<u>84852-15-3</u>	<u>4-Nonyl phenol (NP) branched</u>	<u>2011</u>
<u>84852-53-9</u>	<u>Decabromodiphenyl ethane (DBDPE)</u>	<u>2017</u>
<u>85535-84-8</u>	<u>Short-chain chlorinated paraffins (SCCP)</u>	<u>2017</u>
<u>108171-26-2</u>	<u>Chlorinated paraffins</u>	<u>2017</u>
<u>220352-35-2</u>	<u>Butylated triphenyl phosphate</u>	<u>2017</u>
<u>183658-27-7</u>	<u>2-ethylhexyl-2,3,4,5-tetrabromobenzoate (TBB)</u>	<u>2017</u>

List of CHCCs removed by Rule Amendment

<u>CAS</u>	<u>Chemical</u>	<u>Year Removed</u>
<u>71-36-3</u>	<u>1-Butanol</u>	<u>2013</u>
<u>85-44-9</u>	<u>Phthalic anhydride</u>	<u>2017</u>
<u>556-67-2</u>	<u>Octamethylcyclotetrasiloxane (D4)</u>	<u>2017</u>
<u>7439-98-7</u>	<u>Molybdenum &amp; molybdenum compounds</u>	<u>2017</u>

~~((∓The presence of Tris(1,3-dichloro-2-propyl)phosphate must be reported in all notices required to be filed after August 31, 2014, according to the phase-in schedule in WAC 173-334-110(2).))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 173-334-110 When must manufacturers begin to provide notice?

**WSR 17-07-134**  
**PROPOSED RULES**  
**LIQUOR AND CANNABIS**  
**BOARD**

[Filed March 22, 2017, 11:20 a.m.]

Supplemental Notice to WSR 16-22-094.

Preproposal statement of inquiry was filed as WSR 16-16-056.

Title of Rule and Other Identifying Information: Chapter 314-02 WAC, Requirements for retail liquor licenses; chapter 314-03 WAC, Allowed activities; chapter 314-07 WAC, How to apply for a liquor license; chapter 314-11 WAC, General requirements for licensees; and chapter 314-12 WAC, General—Applicable to all licensees.

Hearing Location(s): Washington State Liquor Control [and Cannabis] Board, 3000 Pacific Avenue S.E., Board Room, Olympia, WA 98504, on May 3, 2017, at 10:00 a.m.

Date of Intended Adoption: May 17, 2017.

Submit Written Comments to: Karen McCall, P.O. Box 43080, Olympia, WA 98504, email rules@lcb.wa.gov, fax (360) 664-9689, by May 3, 2017.

Assistance for Persons with Disabilities: Contact Karen McCall by May 3, 2017, (360) 664-1631.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: As part of the liquor and cannabis board's ongoing rules review process the rules are being reviewed for relevance, clarity, and accuracy.

Reasons Supporting Proposal: Removing outdated language and clarifying current rules.

Statutory Authority for Adoption: RCW 66.08.030.

Statute Being Implemented: RCW 66.24.010, 66.24.320, 66.24.330, 66.24.371, 66.24.410, 66.24.570, 66.24.600, 66.24.610, 66.24.630, 66.24.655, 66.24.690.

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

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Karen McCall, Rules Coordinator, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1631; Implementation: Becky Smith, Licensing Director, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1615; and Enforcement: Justin Nordhorn, Chief Enforcement, 3000 Pacific Avenue S.E., Olympia, WA 98504, (360) 664-1726.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not required.

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis was not required.

March 22, 2017  
Jane Rushford  
Chairman

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

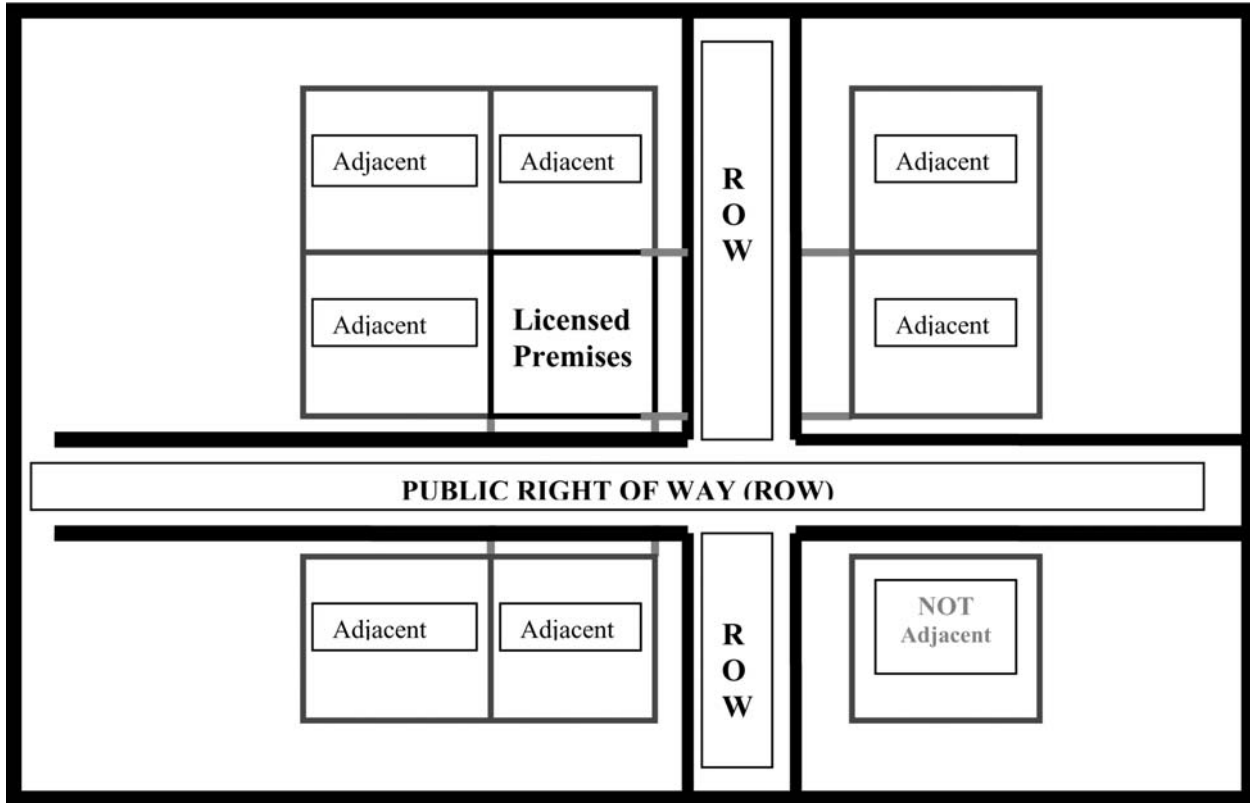
**WAC 314-02-005 What is the purpose of chapter 314-02 WAC?** Chapter 314-02 WAC outlines the qualifications for the following liquor licenses:

- (1) Spirits, beer, and wine restaurants;
- (2) Nightclubs;
- (3) Spirits, beer, and wine restaurant restricted;
- (4) Hotels;
- (5) Spirits, beer, and wine theater;
- (6) Beer and wine theater;
- (7) VIP airport lounge;
- (8) Beer and/or wine restaurants;
- ~~((6))~~ (9) Sports/entertainment facilities;
- ~~((7))~~ (10) Snack bars;
- ~~((8))~~ (11) Taverns;
- ~~((9))~~ (12) Motels;
- ~~((10))~~ (13) Nonprofit arts organizations;
- ~~((11))~~ (14) Grocery stores;
- ~~((12))~~ (15) Beer/wine specialty shops; ~~((and~~
- ~~(13))~~ (16) Beer/wine gift delivery businesses;
- (17) Spirits retailer;
- (18) Caterers; and
- (19) Senior center.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-010 Definitions.** The following definitions are to clarify the purpose and intent of the rules and laws governing liquor licenses and permits. Additional definitions can be found in RCW 66.04.010.

(1) "Adjacent" means having a common endpoint or border where the extension of the property lines of the licensed premises contacts that common border.



(2) "Appetizer" means a small portion of food served before the main course of a meal to stimulate the appetite. An appetizer does not qualify as minimum food service.

(3) "Banquet room" means any room used primarily for the sale and service of food and liquor to private groups.

(4) "Customer service area" means areas where food and/or liquor are normally sold and served to the public, i.e., lounges and dining areas. A banquet room is not considered a customer service area.

(5) "Dedicated dining area." In order for an area to qualify as a dedicated dining area, it must be a distinct portion inside of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. See WAC 314-02-025 for more information.

(6) "Designated area" means a space where alcohol may be sold, served, or consumed.

(7) "Entertainer" means someone who performs for an audience such as a disc jockey, singer, or comedian, or anyone providing entertainment services for the licensee. An entertainer is considered an employee of the liquor licensee per WAC 314-01-005. Patrons participating in entertainment are not considered employees.

(8) "Entertainment" means dancing, karaoke, singing, comedy shows, concerts, TV broadcasts, contests with patron participation and/or performing for an audience.

(9) "Food counter" means a table or counter set up for the primary purpose of food service to customers who sit or stand at the counter. Any alcohol served is incidental to food service.

(10) "Game room" means an area of a business set up for the primary purpose of patrons using games or gaming devices.

(11) "Limited food service" means items such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders.

(12) "Liquor bar" means a table or counter where alcohol is stored or prepared and served to customers who sit or stand at the bar. Liquor bars can only be in lounges or in premises where minors are not allowed at any time.

(13) "Lounge" means the portion of a restaurant used primarily for the preparation, sale, and service of beer, wine, or spirits. Minors are not allowed in a lounge (see RCW 66.44.-316 for information on employees and professional musicians under twenty-one years of age).

(14) "Minimum food service" means items such as sandwiches, salad, soup, pizza, hamburgers, and fry orders.

(15) "Minor" means a person under twenty-one years of age.

(16) "On-premises liquor licensed premises" means a building in which a business is located inside that is allowed to sell alcohol for consumption on the licensed premises.

(17) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

(18) "Snack food" means items such as peanuts, popcorn, and chips.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

**WAC 314-02-015 What is a spirits, beer, and wine restaurant license?** (1) Per RCW 66.24.400, this license allows a restaurant to:

- (a) Serve spirits by the individual glass for on-premises consumption;
- (b) Serve beer by the bottle or can or by tap for on-premises consumption;
- (c) Serve wine for on-premises consumption;
- (d) Allow patrons to remove recorked wine from the licensed premises;
- (e) Sell wine by the bottle for off-premises consumption with the appropriate endorsement; and
- (f) Sell kegs of malt liquor with the appropriate endorsement. This endorsement also allows the sale of beer or cider as defined in RCW 66.24.210(6) to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the retailer at the time of sale.

(2) To obtain and maintain a spirits, beer, and wine restaurant license, the restaurant must be open to the public at least five hours a day during the hours of 8:00 a.m. and 11:00 p.m., three days a week.

(3) All applicants for a spirits, beer, and wine license must establish, to the satisfaction of the board, ~~((that))~~ the premises will operate as a bona fide restaurant. The term "bona fide restaurant" ~~((is defined in RCW 66.24.410(2)))~~ means a business where the board can clearly determine that the primary purpose of the business is the service of complete meals. "Complete meals" is defined in WAC 314-02-035.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-020 What are the fee categories for a spirits, beer, and wine restaurant license?** (1) Per RCW 66.24.420, the annual fee for a spirits, beer, and wine restaurant license is graduated, as follows:

Amount of customer service area dedicated to dining	Annual fee
100%	\$1,000
50 - 99%	\$1,600
Less than 50%	\$2,000

(2) In order for an area to qualify as a dedicated dining area it must be a separate and distinct portion inside of a restaurant that is used primarily for the sale, service, and consumption of food, and have accommodations for eating, e.g., tables, chairs, booths, etc. Areas dedicated to live music or entertainment, such as dance floors or stages are not considered dedicated dining areas. Dedicated dining areas may not contain:

- (a) Liquor bars (see definition under WAC 314-02-010(2)); or
  - (b) Areas dedicated to games or gaming devices.
- (3) The fee for a spirits, beer, and wine restaurant license outside of an incorporated city or town will be prorated

according to the calendar quarters the licensee is open for business. This proration does not apply in the case of a suspension or revocation of the license.

(4) A duplicate license is required in order to sell liquor from more than one site on your property. These sites must be located on the same property and owned by the same licensee. The following types of businesses may apply for a duplicate license:

Type of Business	Annual fee per duplicate license
Airport terminal	25% of annual license fee
Civic center (such as a convention center)	\$10
Privately owned facility open to the public	\$20

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-025 What are the floor space requirements to obtain and maintain a spirits, beer, and wine restaurant license or a beer and wine restaurant license?**

(1) The liquor ~~((control))~~ and cannabis board has the responsibility to classify what licensed premises or what portions of the licensed premises are off-limits to minors. (RCW 66.44.310(2).) Minors may not purchase, possess, or consume liquor, and may not enter any areas that are classified as off-limits to minors. (RCW 66.44.290 and 66.44.310.) The purpose of this rule is to clarify the ways in which licensees can prevent minors from consuming alcohol or entering restricted areas.

(2) Dedicated dining areas - If a spirits, beer, and wine restaurant licensee or a beer and wine restaurant licensee that allows minors chooses to have live music, Karaoke, patron dancing, live entertainment, or contests involving physical participation by patrons in the dedicated dining area after 11:00 p.m., the licensee must either:

- (a) Request board approval to reclassify the dining area to a lounge for the period of time that live entertainment is conducted, thus restricting minors during that time; or
- (b) Notify the board's licensing and regulation division in writing at least forty-eight hours in advance that the sale, service, and consumption of liquor will end in the dedicated dining area after 11:00 p.m.

Request or notifications may cover one event or a series of recurring events over a period of time.

(3) **Barriers** - Licensees must place barriers around areas that are classified as off-limits to minors and around game rooms.

- (a) The barriers must clearly separate restricted areas, and must be at least forty-two inches high.
- (b) The barriers must be permanently affixed (folding or retractable doors or other barriers that are permanently affixed are acceptable). A portable or moveable rope and stanchion is not acceptable. Those licensees that have been approved by the board for moveable barriers prior to the effective date of this rule may keep their ~~((moveable))~~ move-

able barriers until the licensee requests alterations to the premises or the premises change ownership.

(c) ~~(Liquor bars cannot be used as the required barriers (see definition of liquor bar in WAC 314-02-010(10)).) Structures where customers can sit or stand and consume food or liquor are not acceptable as a barrier.~~

(d) Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

(e) "Minor prohibited" signs, as required by WAC 314-11-060(1), must be posted at each entrance to restricted areas.

(4) If the business allows minors, the business's primary entrance must open directly into a dedicated dining area or into a neutral area, such as a lobby or foyer, that leads directly to a dedicated dining area. Minors must be able to access restrooms without passing through a lounge or other age-restricted area.

(5) **Floor plans** - When applying for a license, the applicant must provide to the board's licensing and regulation division two copies of a detailed drawing of the entire premises. The drawing must:

- (a) Be drawn one foot to one-quarter-inch scale;
- (b) Have all rooms labeled according to their use; e.g., dining room, lounge, game room, kitchen, etc.; and
- (c) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

(6) **Convention centers** - To qualify for a convention center there must be two or more rooms that provide space and accommodations for private events only. Licensees holding a convention center may only sell alcohol for private events at the licensed premises.

**AMENDATORY SECTION** (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-035 What are the food service requirements for a spirits, beer, and wine restaurant license?** (1) A spirits, beer, and wine restaurant licensee must serve at least eight complete meals. The board may make an exception to the eight complete meal requirement on a case-by-case basis. Establishments shall be maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. For purposes of this title:

(a) "Complete meal" means an entree and at least one side dish.

(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.

(2) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(3) The complete meals must be prepared on the restaurant premises.

(4) A chef or cook must be on duty while complete meals are offered.

(5) A menu must be available to customers.

(6) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(7) Restaurants that have one hundred percent dedicated dining area must maintain complete meal service any time liquor is available for sale, service, or consumption.

(8) Restaurants with less than one hundred percent dedicated dining area must maintain complete meal service for a minimum of five hours a day during the hours of 8:00 a.m. and 11:00 p.m., ~~((five))~~ three days a week. ~~((The board may consider written requests for exceptions to this requirement due to demonstrated hardship, under such terms and conditions as the board determines are in the best interests of the public.))~~

Limited food service, such as appetizers, sandwiches, salads, soups, pizza, hamburgers, or fry orders, must be available outside of these hours. Snacks such as peanuts, popcorn, and chips do not qualify as limited food service.

(9) The hours of complete meal service must be conspicuously posted on the premises or listed on the menu. A statement that limited food service is available outside of those hours must also be posted or listed on the menu.

**AMENDATORY SECTION** (Amending WSR 10-01-091, filed 12/16/09, effective 1/16/10)

**WAC 314-02-037 What are the floor space requirements for a spirits, beer, and wine nightclub license?** (1) The liquor ~~((control))~~ and cannabis board has the responsibility to classify what licensed premises or what portions of a licensed premises are off limits to minors.

(a) Any areas in the licensed premises where alcohol is sold, served, or consumed is classified as off-limits to minors (RCW 66.44.310(2)).

(b) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(2) **Barriers** - Licensees must place barriers separating restricted areas from areas where minors will be allowed.

(a) The barriers must clearly separate restricted areas and must be at least forty-two inches high.

(b) The barriers may be moveable.

(c) ~~((Liquor bars cannot be used as barriers (see definition of liquor bar in WAC 314-02-010(10)).~~

~~((d)))~~ Entrances to restricted areas may not be wider than ten feet. If a licensee has more than one entrance along one wall, the total entrance areas may not exceed ten feet.

~~((e)))~~ (d) "Minor prohibited" signs, as required under WAC 314-11-060(1), must be posted at each entrance to a restricted area.

(3) If the business allows minors, the primary entrance must open directly into a nonrestricted area. Minors must be able to access restrooms without passing through a restricted area.

(4) **Floor plans** - When applying for a spirits, beer, and wine nightclub license, the applicant must provide to the board's licensing and regulation division two copies of a

detailed drawing of the entire premises. If there will be different floor plans for different types of events that change the location and/or dimensions of the restricted area(s), the applicant must provide two copies of a detailed drawing for each floor plan. All restricted areas must be designated on the floor plan(s) and be approved by the board. The drawing must be labeled with the type of event. The drawing must:

- (a) Have all rooms labeled according to their use; e.g., lounge, dance floor, stage area, foyer, restrooms, etc.; and
- (b) Have all barriers labeled in a descriptive way; e.g., "full wall," "half wall," etc.

**AMENDATORY SECTION** (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-043 What is a VIP airport lounge license?** (1) Per RCW (~~66.24.XXX~~) 66.24.610, a VIP airport lounge liquor license allows a VIP airport lounge licensee to sell or provide spirits, wine, and beer for on-premises consumption as a retail licensed premises.

(a) A VIP airport lounge is a retail establishment in an international airport, beyond security checkpoints.

(b) The VIP airport lounge liquor licensee must be the entity in control of the day-to-day operations of the VIP airport lounge.

(c) Spirits, beer, and wine to be sold or provided complimentary by the individual serving for on-premises consumption to persons at least twenty-one years of age or older.

(d) Customers may not remove spirits, beer, and wine from the premises at any time.

(e) The VIP airport lounge licensee may only serve liquor from a service bar. A service bar is a work station primarily used to prepare and sell alcoholic beverages that are picked up by the customer. Customers are not permitted to mix their own drinks, sit or consume food or alcohol at the service bar.

(f) All alcohol servers must have a valid MAST permit.

(2) The annual fee for this license is two thousand dollars.

**AMENDATORY SECTION** (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-044 Application process and guidelines for a VIP airport lounge liquor license.** (1) RCW 66.24.010 states the board will only issue licenses and permits to applicants and locations that meet certain qualifications. Please see chapter 314-07 WAC for liquor license qualifications and application process.

(2) An applicant for a VIP airport lounge license must include a sketch of the VIP airport lounge area including the service bar area and where the alcohol inventory will be stored.

(3) All alcohol inventory must be stored on the VIP airport lounge licensed premises.

(4) ~~((All spirits must be purchased from the board at the assigned liquor store. Beer and wine must be purchased from a licensed distributor or retail outlet. A VIP lounge licensee may purchase wine directly from a licensed manufacturer if the licensee holds an endorsement to receive direct shipments from a manufacturer.~~

~~(5))~~ Access to a VIP airport lounge is generally limited to:

(a) Ticketed airline passengers of any age who have first class, executive, or business class tickets;

(b) Qualified members or guests of loyalty incentive programs, members or guests of enhanced amenities programs;

(c) Passengers or airline employees issued a pass by the airline for access; and

(d) Airport, airline employees, government officials, and attendees of airport authority or airlines for business promotion with controlled access by the VIP airport lounge licensee.

~~((6))~~ (5) Between the hours of 2 a.m. and 6 a.m., licensees or employees may not:

(a) Provide, offer, or sell liquor;

(b) Deliver liquor (except that beer and/or wine distributors may deliver beer and/or wine to retail licensees between the hours of 2 a.m. and 6 a.m.);

(c) Allow liquor to be consumed on the premises; or

(d) Possess liquor, except that persons working on the premises may possess liquor between the hours of 2 a.m. and 6 a.m. while in the performance of their official duties.

~~((7))~~ (6) A local government subdivision may fix later opening hours or earlier closing hours than those specified in this rule, so long as the hours apply to all licensed premises in the local government subdivision's jurisdiction. See WAC 314-12-215(3) for exceptions when a premises is in a board recognized alcohol impact area.

**AMENDATORY SECTION** (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-056 Sports/entertainment facility license—Purpose.** (1) **What is the purpose of the rules governing the use of alcohol in sports/entertainment facilities?**

(a) In RCW 66.24.570, the legislature established a spirits, beer, and wine license for arenas, coliseums, stadiums, or other facilities where sporting, entertainment, and special events are presented.

(b) These rules provide a framework for the enforcement of liquor laws and regulations, particularly those prohibiting the sale of alcohol to persons under twenty-one years of age or persons who are apparently intoxicated.

(c) This framework recognizes the unique conditions associated with events attended by large crowds consisting of diverse age groups.

(2) **Will the liquor (~~control~~) and cannabis board recognize the differences between types of sports/entertainment facilities; professional sports/entertainment facilities, amateur sporting facilities, and racetracks?** Yes. A sports/entertainment facility must submit an operating plan, which must be approved by the board prior to the issuance of a license. All plans are required to meet the minimum standards outlined in WAC 314-02-058. The board will take into consideration the unique features of each facility when approving an operating plan, including the seating accommodations, eating facilities, and circulation patterns. The board will allow proration of the sports/entertainment license fees under certain conditions:



- (a) The licensee is an amateur sports organization; or
- (b) The licensee is a racetrack that meets specific criteria.

(3) Amateur sports organizations must meet the following criteria:

(a) Season length must not be more than three months, with an additional month allowed for playoffs if applicable (requests/approval for any additional months must be made on a case-by-case basis). The venue must remain closed for the remainder of the year.

(b) Must comply with all elements contained in WAC 314-02-056 through 314-02-059.

(c) Must provide proof of amateur status.

(d) Must provide a statement regarding removal/disposal of alcohol inventory at the end of the season.

(e) Seating capacity of the venue may not exceed five thousand.

(4) Racetracks must meet the following criteria:

(a) Must be a seasonal operation of two quarters or less (requests/approval for any additional quarters must be made on a case-by-case basis).

(b) Seating capacity of the venue may not exceed five thousand.

(c) Maximum number of race days allowed per week is two.

(d) Per RCW 66.24.010(9) a motor sports facility is required to enforce a program reasonably calculated to prevent alcohol or alcoholic beverages not purchased within the facility from entering the facility and such program must be approved by the local law enforcement agency. A copy of this program showing the local law enforcement approval must be submitted to the board's licensing division.

AMENDATORY SECTION (Amending WSR 15-18-040, filed 8/26/15, effective 9/26/15)

**WAC 314-02-057 Definitions.** (1) **Premises** - Buildings, parking lots, and any open areas that are adjacent to and owned, leased, or managed by the licensee and under the licensee's control.

(2) **Event categories** - Types of events that the licensee expects to hold on the premises:

(a) **Professional sporting event** - A contest involving paid athletes and sanctioned by a professional sports organization that regulates the specific sport.

(b) **Amateur sporting event** - A contest or demonstration involving athletes who receive no monetary compensation that is sanctioned by a national or regional amateur athletic regulatory organization.

(c) **Entertainment event** - A concert involving a live musician, a live comedy act, or similar event intended for the entertainment of the audience. Broadcast television or background videos or music does not qualify as live entertainment.

(d) **Special event** - A convention, trade show, or other like public event with prior approval.

(e) **Private event** - An event not open to the public such as a wedding, private party, or business meeting, where the facility or a portion of the facility where the event is held is not accessible to the general public during the time of the private event.

(3) **Hawking** - The practice of selling alcohol in seating areas by roving servers who carry the beverages with them, as outlined in WAC 314-02-058(4). Because of row seating arrangements, servers normally do not have direct access to customers. Therefore, service usually requires that drinks, money, and identification be passed down rows, involving other spectators. Hawking is only allowed at professional sporting events.

(4) **Club seats** - A specifically designated and controlled seating area that is distinct from general seating with food and beverage service provided by servers directly to the customer.

AMENDATORY SECTION (Amending WSR 15-18-040, filed 8/26/15, effective 9/26/15)

**WAC 314-02-058 Sports/entertainment facility licenses—Operating plans.** (1) **What requirements govern the submission of operating plans?**

(a) To receive a license, a sports/entertainment facility must submit an operating plan for board approval.

(b) Once approved, the plan remains in effect until the licensee requests a change or the board determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan. Changes to an operating plan must be submitted to the board's licensing division for approval.

(c) The plan must be submitted in a format designated by the board.

(d) The plan must contain all of the following elements:

(i) How the sports/entertainment facility will prevent the sale and service of alcohol to persons under twenty-one years of age and those who appear to be intoxicated.

(ii) The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served. The minimum ratio allowed is one staff person to fifty attendees at the event.

(iii) Training provided to staff who serve, regulate, or supervise the service of alcohol. Mandatory alcohol server training is required for all staff.

(iv) The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one transaction. Two alcoholic beverages is the maximum number allowed to be sold and served to an individual patron during one transaction.

(v) An explanation of the alcoholic beverage containers that will be used to ensure they are significantly different from containers utilized from nonalcoholic beverages.

(vi) A list of event categories (see WAC 314-02-057(2)) to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event.

(vii) The date must be included in the operating plan.

(viii) The pages must be numbered in the operating plan.

(ix) A site plan designating all alcohol service areas. Identify all beer garden areas to include dimensions of the area, capacity, number of alcohol service/security employees staffing the area, and what type/size of barrier will surround the alcohol service area.

(x) The operating plan must be signed by a principal of the licensed entity.

(e) Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the facility's local liquor enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The licensee must notify the local enforcement office at least seventy-two hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. Notice of private events is not required when the event is being held in conjunction with a professional or amateur sporting event, an entertainment event, or a special event as outlined in WAC 314-02-057(2).

(2) **May the liquor ((control)) and cannabis board impose any other mandatory standards as a part of an operating plan?** Yes. To prevent persons who are under twenty-one years of age or who appear intoxicated from gaining access to alcohol, the board may impose the following standards as part of an operating plan:

(a) The board may require that an operating plan include additional mandatory requirements if it is judged by the board that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent

persons under twenty-one years of age or who are apparently intoxicated from obtaining alcohol.

(b) To permit alcohol servers to establish the age of patrons and to prevent over-service, sports/entertainment facilities must meet minimum lighting requirements established by WAC 314-11-055 in any area where alcohol is served or consumed. For the purpose of establishing a permanent technical standard, an operating plan may include a lighting standard measured in foot candles, so long as the candle power of the lighting is, at all times, sufficient to permit alcohol servers to establish the validity of documents printed in eight point type.

(3) **Where will spirits, beer, and wine be allowed in a sports/entertainment facility?** The purpose of the following matrix is to outline where and when alcohol service will normally be permitted. Due to the unique nature of each facility, the board will determine the permitted alcohol service based on the facility's approved operating plan.

(a) Self-service of alcohol is prohibited.

(b) If alcohol service is requested outside of the parameters listed below, a special request with justification for the alcohol service area must be submitted with the operating plan for consideration by the board.

Type of event as defined in WAC 314-02-057	Beer, wine, and spirits may be sold and served in approved restaurants, lounges, private suites, and club rooms	Beer, wine, and spirits may be sold and served in temporary lounges, beer gardens, or other approved service areas	Spirits, beer, and wine may be served and consumed in club seats during events	Beer and wine may be consumed throughout seating areas during events	Hawking - beer may be served throughout seating areas, subject to the provisions of WAC 314-02-058(4)
Professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events	x	x	x	x	x
All other professional sporting events including WWE, UFC, rodeo, motorcross, national auto racing, and monster truck events (level of alcohol service will be determined on a case-by-case basis per the approved operating plan)	x	x	x	x	
Amateur sporting events (nonpaid athletes)	x	x		x	

Type of event as defined in WAC 314-02-057	Beer, wine, and spirits may be sold and served in approved restaurants, lounges, private suites, and club rooms	Beer, wine, and spirits may be sold and served in temporary lounges, beer gardens, or other approved service areas	Spirits, beer, and wine may be served and consumed in club seats during events	Beer and wine may be consumed throughout seating areas during events	Hawking - beer may be served throughout seating areas, subject to the provisions of WAC 314-02-058(4)
Entertainment events	x	x			
Special events (trade shows, conventions)	x	x			
<u>Darkened house events</u>	<u>x</u>	<u>x</u>	<u>x</u>	<u>x</u>	

~~((b))~~ (c) For private events, beer, wine, and spirits may be served in the area where the event is held. This area may be a separate meeting or banquet room or the entire facility.

~~((e))~~ (d) In order to minimize youth access to alcohol, the board may prohibit or restrict the service of alcohol at events where the attendance is expected to be over thirty percent persons under twenty-one years of age. This restriction will not apply to the professional sporting events outlined in WAC 314-02-057 (2)(a).

~~((4))~~ (e) To request approval for walk around beer and/or wine consumption at special events, the licensee must provide the board the following information about the event:

- (i) Type of event;
- (ii) Demographics of the event;
- (iii) Lighting at the event; and
- (iv) If the event is located indoors or outdoors.

(4) Darkened house. Consumption of alcohol within the darkened seating portions of the venue during entertainment activities are subject to the following conditions:

(a) Request for darkened house activities will be part of the operating plan.

(b) The board will only approve darkened house events after notification to the local authority as identified by the licensing division and approval by the designated local authority. The notification will clearly state:

(i) Primary responsibility for the control of the darkened area of the establishment will rest with the licensee and local law enforcement authorities; and

(ii) The board will not entertain contradictory recommendations from subdivisions of the local jurisdictions.

(c) Violation of the darkened house addendum to the operating plan will be viewed as an aggravating factor to a violation rather than a primary enforcement issue.

(5) Will hawking be allowed at sports/entertainment facilities? Subject to the provisions of this rule, hawking may be permitted in general seating areas for the sale and consumption of beer, at the professional sporting events of baseball, football, basketball, soccer, tennis, volleyball, horse racing, hockey, and track and field events only, as defined by WAC 314-02-057 (2)(a).

(a) An operating plan must include procedures for hawkers to verify the age of purchasers and to prevent service to apparently intoxicated persons.

(b) During hawking, any patron may decline to handle alcoholic beverages, either on behalf of themselves and for any person under their supervision. When a patron objects to handling alcohol, hawkers must accommodate the objection. The facility operating plan will address how hawking will be managed, including how hawkers will respond to patron objections to handling alcohol.

AMENDATORY SECTION (Amending WSR 11-23-045, filed 11/9/11, effective 12/10/11)

**WAC 314-02-060 What is a caterer's endorsement?**

(1) A spirits, beer, and wine restaurant and a beer and/or wine restaurant applicant or licensee may apply for a caterer's endorsement, in order to extend the on-premises license privilege to allow the sale and service of liquor at ~~((approved))~~ locations other than ~~((the))~~ liquor licensed premises. See RCW 66.24.420(6) and 66.24.320(2) for more information about this endorsement.

(2) The annual fee for this endorsement is three hundred fifty dollars.

AMENDATORY SECTION (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

**WAC 314-02-070 What is a tavern license?** (1) Per

RCW 66.24.330 and 66.24.354, this license allows a tavern to:

Privilege	Annual fee
(a) Serve beer by the bottle or can or by tap for on-premises consumption.	\$200
(b) Serve wine for on-premises consumption.	\$200
(c) Sell beer and/or wine in the original, unopened containers for off-premises consumption.	\$120

Privilege	Annual fee
(d) Sell tap beer for off-premises consumption in a sanitary container holding less than four gallons of beer, <del>((and brought to the premises by the purchaser))</del> <u>provided by the purchaser, licensee, or manufacturer and filled by an employee at the time of purchase.</u>	In conjunction with off-premises privilege outlined in (c) of this subsection.
(e) Sell cider as defined in RCW 66.24.210(6) for off-premises consumption to a purchaser in a sanitary container brought to the premises by the purchaser or provided by the licensee and filled at the tap in the tavern at the time of purchase. The licensee must comply with federal regulations.	In conjunction with off-premises privilege outlined in (c) of this subsection.
(f) Sell beer in kegs or other containers holding at least four gallons of beer (see WAC 314-02-110 regarding the requirements for registering kegs).	In conjunction with off-premises privilege outlined in (c) of this subsection.

(2) A tavern licensee may not allow persons under twenty-one years of age on the premises at any time (see RCW 66.44.316 for information regarding employees and professional musicians under twenty-one years of age).

**AMENDATORY SECTION** (Amending WSR 14-03-077, filed 1/15/14, effective 2/15/14)

**WAC 314-02-087 What is a spirits, beer, and wine theater license?** (1) A spirits, beer, and wine theater is a place of business where motion pictures or other primarily nonparticipatory entertainment or events are shown. The holder of a beer and wine theater license is allowed to sell spirits, beer, strong beer, and wine, at retail, for consumption on the licensed premises.

(2) The requirements for the spirits, beer, and wine theater license are as follows:

(a) The theater has no more than one hundred twenty seats per ~~((screen))~~ theater room.

(b) All servers of beer and wine are required to attend a mandatory alcohol server training (MAST) program.

(c) The serving size for spirits is one and one quarter ounce. The serving size for wine is five ounces. The serving size for beer is twelve ounces.

(d) There must be tabletop accommodations for in-theater dining.

(e) If the theater premises will be frequented by minors an alcohol control plan agreement must be signed and submitted to the board during the application process.

(3) A spirits, beer, and wine theater licensee must serve at least eight complete meals. Establishments shall be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals.

(a) "Complete meal" means an entree and at least one side dish.

(b) "Entree" means the main course of a meal. Some examples of entrees are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrees do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread. Garnishes such as, but not limited to, pickles, salsa, and dips do not qualify as a side dish.

(d) The restaurant must maintain the kitchen equipment necessary to prepare the complete meals required under this section.

(e) The complete meals must be prepared on the restaurant premises.

(f) A chef or cook must be on duty while complete meals are offered.

(g) A menu must be available to customers.

(h) The food items required to maintain the menu must be on the restaurant premises. These items must be edible.

(4) The alcohol control plan agreement will be provided on a form by the board and includes the following requirements:

(a) Ensure that alcoholic beverages are not sold to persons under the age of twenty-one, staff will request identification from any patron who appears to be age thirty or under and who is attempting to purchase an alcoholic beverage.

(b) Alcoholic beverages must be served in containers that differ significantly from containers utilized for nonalcoholic beverages.

(c) All alcoholic beverages sold under this license must be sold by the individual drink.

(d) If staff observes a patron who is in the possession of or who is consuming an alcoholic beverage, who appears to be of questionable age, staff will request identification from that patron. If the patron is unable to produce an acceptable form of identification verifying their age, the alcohol will be confiscated.

(e) Staff will accept only those forms of identification that are acceptable per WAC 314-11-025 to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol.

(f) All employees involved in the sale, service, and/or supervision of alcoholic beverages will be required to attend MAST to obtain the appropriate permit for their level of service.

(g) Sufficient lighting must be maintained at the point of sale so that identification can be confirmed and patrons observed for signs of intoxication.

(h) To ensure alcoholic beverages are served in a safe, responsible, and controlled manner, sales and service of alcoholic beverages will be limited to one serving per person per transaction.

(i) If a patron is accompanied by another patron who wants to pay for both people's drinks, they may do so, provided that both patrons are of legal age to purchase, and have proper identification, if requested, and are not displaying signs of intoxication.

(j) Alcohol may only be sold, served, and consumed in areas designated in the alcohol control plan agreement and approved by the board.

(k) Staff will refuse to sell an alcoholic beverage to any person who appears to be intoxicated. Alcoholic beverages will be removed from any person who appears to be intoxicated.

(l) This alcohol control plan agreement will be prominently posted on the licensed premises.

(5) Penalties are doubled for a violation involving minors or the failure to follow the signed alcohol control plan agreement.

(6) If the theater premises has a restaurant located outside of the actual theater screening areas, spirits, beer, and wine may be served and consumed in the restaurant area.

(a) Spirits may be sold by the individual drink.

(b) Beer may be sold by the pitcher as well as by individual serving for consumption in the restaurant area.

(c) Wine may be sold by the bottle as well as by the individual serving for consumption in the restaurant area.

**AMENDATORY SECTION** (Amending WSR 15-01-001, filed 12/3/14, effective 1/3/15)

**WAC 314-02-105 What is a beer and/or wine specialty store license?** (1) Per RCW 66.24.371, a beer and/or wine specialty store license allows a licensee to sell beer and/or wine for off-premises consumption.

(2) The annual fee for this license is one hundred dollars.

(3) Qualifications for license - To obtain and maintain a beer and/or wine specialty store license, the premises must be stocked with an inventory of beer and/or wine in excess of three thousand dollars wholesale value. This inventory must be:

(a) Stocked within the confines of the licensed premises; and

(b) Maintained on the premises at all times the premises is licensed, with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(4) Qualifications to sample - A beer and/or wine specialty store licensee may allow customers to sample beer and wine for the purpose of sales promotion, if the primary business is the sale of beer and/or wine at retail, and the licensee meets the requirements outlined in either (a) or (b) of this subsection:

(a) A licensee's gross retail sales of alcohol exceeds fifty percent of all annual gross sales for the entire business; or

(b) The licensed premises is a beer and/or wine specialty store that conducts bona fide cooking classes for the purpose of pairing beer and/or wine with food, under the following conditions:

(i) The licensee must establish to the satisfaction of the board that the classes are bona fide cooking courses. The licensee must charge participants a fee for the course(s).

(ii) The sampling must be limited to a clearly defined area of the premises. The licensee must provide a sketch of the sampling area.

(iii) The licensee must receive prior approval from the board's licensing and regulation division before conducting sampling with cooking classes.

(iv) Once approved for sampling, the licensee must provide the board's enforcement and education division a list of all scheduled cooking classes during which beer and/or wine samples will be served. The licensee must notify the board's enforcement and education division at least forty-eight hours in advance if classes are added.

(5) Licensees who qualify for sampling under subsection (4) of this section may sample under the following conditions:

(a) Employees conducting sampling must hold a class 12 alcohol server permit;

(b) No more than a total of ten ounces of alcohol may be provided to a customer during any one visit to the premises;

(c) Each sample must be two ounces or less.

(6) A beer and/or wine specialty store licensee may sell beer in kegs or other containers holding at least four gallons of beer. See WAC 314-02-115 regarding keg registration requirements.

(7) A beer and/or wine specialty store licensee may receive an endorsement to permit the sale of beer and cider as defined in RCW 66.24.210(6) to a purchaser in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap by the licensee at the time of sale under the following conditions:

(a) The beer and/or wine specialty store sales of alcohol must exceed fifty percent of their total sales;

(b) The board may waive the fifty percent beer and/or wine sale criteria if the beer and/or wine specialty store maintains a wholesale alcohol inventory that exceeds fifteen thousand dollars.

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

**WAC 314-02-109 What are the quarterly reporting and payment requirements for a spirits retailer license?**

(1) A **spirits retailer** must submit quarterly reports and payments to the board.

The required reports must be:

(a) On a form furnished by the board;

(b) Filed every quarter, including quarters with no activity or payment due;

(c) Submitted, with payment due, to the board on or before the twenty-fifth day following the tax quarter (e.g., Quarter 1 (Jan., Feb., Mar.) report is due April 25th). When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(2) **What if a spirits retailer licensee fails to report or pay, or reports or pays late?** Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board as required in subsection (1) of this section will be sufficient grounds for the board to suspend or revoke the liquor license.

Failure of a spirits retailer licensee to submit its quarterly reports and payment to the board for two consecutive quarters will be sufficient grounds for the board to revoke the liquor license.

A penalty of one percent per month will be assessed on any payments postmarked after the twenty-fifth day quarterly report is due. When the twenty-fifth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day.

Absent a postmark, the date received at the Washington state liquor ((~~control~~)) and cannabis board, or designee, will be used to determine if penalties are to be assessed.

AMENDATORY SECTION (Amending WSR 14-24-128, filed 12/3/14, effective 1/3/15)

**WAC 314-02-112 What is a caterer's license?** (1) A caterer's license allows the licensee to sell spirits, beer, and wine by the individual serving for consumption on the premises at a catered event location.

(2) The catered event location must be owned, leased, or operated by:

- (a) The holder of the caterer's license; or
- (b) The sponsor of the event for which the catering services are being provided.

(3) The caterer licensee is responsible for all areas of a location where alcohol is sold, served, consumed, or stored.

(4) If the catered event is open and advertised to the public, the event must be sponsored by a nonprofit society or organization as defined in RCW 66.24.375.

(a) A registered nonprofit holding a public or civic event may invite a caterer to provide alcohol service at a location within the parameters of the event.

(b) If attendance at the catered event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement in subsection (2) of this section does not apply.

(5) A spirits, beer, and wine caterer licensee must have the ability to serve at least eight complete meals. A commissary kitchen, licensed by the city and/or county health department, shall be maintained in a substantial manner as a place for preparing and cooking complete meals. The caterer licensee must maintain the kitchen equipment necessary to prepare the complete meals required under this section. The complete meals must be prepared at the licensed commissary kitchen premises. For the purposes of this title:

(a) "Complete meal" means an entrée and at least one side dish.

(b) "Entrée" means the main course of a meal. Some examples of entrées are fish, steak, chicken, pork, pasta, pizza, hamburgers, seafood salad, Cobb salad, chef's salad, sandwiches, and breakfast items (as long as they include a side dish). Entrées do not include snack items, or menu items which consist solely of precooked frozen food that is reheated, or consist solely of carry-out items obtained from another business.

(c) Examples of side dishes are soups, vegetables, salads, potatoes, french fries, rice, fruit, and bread.

(6) A beer and wine caterer licensee must have the ability to provide minimum food service. A commissary kitchen shall be maintained in a substantial manner as a place for preparing and cooking minimum food service. The caterer licensee must maintain the kitchen equipment necessary to prepare minimum food service required under this section. The minimum food service must be prepared at the licensed commissary kitchen premises. For purposes of this title:

"Minimum food service" means items such as sandwiches, salad, soup, hamburgers, pizza, and fry orders.

Licensees holding a caterer's license may share a commissary kitchen under the following conditions:

(a) Each licensee has their own secure area for their own liquor stock. Liquor stock cannot be shared.

(b) If using a shared commissary kitchen, each applicant/licensee must provide a sketch of the commissary kitchen to licensing indicating the separate secured area for each licensee.

(7) The applicant must provide the liquor ((~~control~~)) and cannabis board with a copy of their commissary kitchen license issued by the city or county health department.

(8) The licensee is required to send a list of scheduled catered events to their regional enforcement office on the first of each month. The licensee must provide the following information:

- (a) Date of the catered events;
- (b) Time of the catered events; and
- (c) Place and location of catered events.

Any changes to the information provided to the board must be reported to the regional enforcement office seventy-two hours prior to the catered event.

(9) A caterer's license holder is not allowed to cater events at a liquor licensed premises.

(10) The holder of the caterer's license may store liquor on other premises operated by the licensee if the licensee owns or has a leasehold interest at the other premises. Documentation must be provided to the board showing the licensee owns or has a leasehold interest in the property.

(11) All employees that sell or serve alcohol must hold MAST permits.

(12) The annual fee for the caterer's license is as follows:

- (a) The annual fee for beer is two hundred dollars;
- (b) The annual fee for wine is two hundred dollars; and
- (c) The annual fee for a combined spirits, beer, and wine is one thousand dollars.

AMENDATORY SECTION (Amending WSR 11-01-133, filed 12/21/10, effective 1/21/11)

**WAC 314-02-120 How do licensees get keg registration forms?** (1) The board will provide keg registration forms free of charge to licensees who hold (a) a beer and/or wine restaurant license in combination with an off-premises beer and/or wine endorsement; (b) a tavern license in combination with an off-premises beer and/or wine endorsement; or (c) a beer and/or wine specialty shop license with a keg endorsement.

(2) Licensees who hold a grocery store license with a keg endorsement, or a spirits, beer, and wine restaurant license with a keg endorsement, must purchase the keg registration

forms. Keg registration books can be ordered online at the liquor ~~((control))~~ and cannabis board web site or from the enforcement customer service line for four dollars per book of twenty-five forms.

### REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 314-02-125 What types of activities on a licensed premises require notice to the board?  
 WAC 314-02-130 What types of changes to a licensed premises require board approval?

AMENDATORY SECTION (Amending WSR 15-07-036, filed 3/11/15, effective 4/11/15)

#### **WAC 314-02-106 What is a spirits retailer license?**

(1) A spirits retailer licensee may not sell spirits under this license until June 1, 2012. A spirits retailer is a retail license. The holder of a spirits retailer license is allowed to:

- (a) Sell spirits in original containers to consumers for off-premises consumption;  
 (b) Sell spirits in original containers to permit holders (see chapter 66.20 RCW);  
 (c) Sell spirits in original containers to on-premises liquor retailers, for resale at their licensed premises, although no single sale may exceed twenty-four liters ~~((, and single sales to an on-premises licensee are limited to one per day))~~; and

(d) Export spirits in original containers.

(2) A spirits retailer licensee that intends to sell to another retailer must possess a basic permit under the Federal Alcohol Administration Act. This permit must provide for purchasing distilled spirits for resale at wholesale. A copy of the federal basic permit must be submitted to the board. A federal basic permit is required for each location from which the spirits retailer licensee plans to sell to another retailer.

(3) A sale by a spirits retailer licensee is a retail sale only if not for resale to an on-premises spirits retailer. On-premises retail licensees that purchase spirits from a spirits retail licensee must abide by RCW 66.24.630.

(4) A spirits retail licensee must pay to the board seventeen percent of all spirits sales. The first payment is due to the board October 1, 2012, for sales from June 1, 2012, to June 30, 2012 (see WAC 314-02-109 for quarterly reporting requirements).

Reporting of spirits sales and payment of fees must be submitted on forms provided by the board.

(5) A spirits retail licensee may apply for a spirits sampling endorsement to conduct spirits sampling if they meet the following criteria:

- (a) Be a participant in the responsible vendor program;  
 (b) Advertising:  
 (i) For spirits retail licensees that also hold a grocery store license, signs advertising spirits samplings may not be placed in the windows or outside of the premises that can be viewed from the public right of way;

(ii) For spirits retail licensees that also hold a beer/wine specialty store license, advertising of spirits sampling may be advertised but not state that sampling is free of charge.

(c) Spirits samplings are to be conducted in the following manner:

(i) Spirits samplings service area and facilities must be located within the licensee's fully enclosed retail area and must be of a size and design that the licensee can observe and control persons in the area.

(ii) The licensee must provide a sketch of the sampling area. Fixed or moveable barriers are required around the sampling area to ensure that persons under twenty-one years of age and apparently intoxicated persons cannot possess or consume alcohol. The sketch is to be included with the application for the spirits sampling endorsement.

(iii) Each sample may be no more than one-half ounce of spirits, and no more than a total of one and one-half ounces of spirits samples per person during any one visit to the premises. Spirits samples may be altered with mixers, water, and/or ice.

(iv) The licensee must have food available for the sampling participants.

(v) Customers must remain in the service area while consuming samples.

(vi) All employees serving spirits during sampling events must hold a class 12 server permit.

(vii) There must be at least two employees on duty when conducting spirits sampling events.

(viii) Spirits sampling activities are subject to RCW 66.28.305 and 66.28.040.

(d) Licensees are required to send a list of scheduled spirits samplings to their regional enforcement office at the beginning of each month. The date and time for each sampling must be included.

(6) The annual fee for a spirits retail license is one hundred sixty-six dollars.

### NEW SECTION

**WAC 314-03-100 What types of activities on a licensed premises require notice to the board?** Liquor licensees must notify their local enforcement office in writing at least five days prior to conducting the following activities unless the licensee has received an exception from their enforcement officer:

(1) Male/female dance reviews, subject to the provision of WAC 314-11-050;

(2) Live boxing or wrestling;

(3) Contests or games where patrons are part of the entertainment;

(4) Hours of operation in between 2:00 a.m. and 6:00 a.m. for licensees that sell liquor for on-premises consumption;

(5) Closing the business to the general public for a private party; and

(6) Outside service for one-time events such as a holiday celebration where liquor service and consumption is planned to extend to an area of the premises that does not have board approval for liquor service. The licensee must have leasehold

rights to the area where alcohol service and consumption is planned.

NEW SECTION

**WAC 314-03-200 Outside or extended alcohol service.** A licensee must request approval from the board's licensing division for ongoing outside or extended alcohol service. The following conditions must be met:

- (1) The area must be enclosed with a permanent or movable barrier a minimum of forty-two inches in height; and
- (2) There must be an interior access to the licensed premises. If the interior access is from a minor restricted area of the premises, minors are prohibited in the outside or extended alcohol service area.
- (3) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present.
- (4) Must have leasehold rights to the area and have and be connected to the licensed premises.
- (5) Openings into and out of the outside area cannot exceed ten feet. If there is more than one opening along one side, the total combined opening may not exceed ten feet.
- (6) **Exception.** For sidewalk cafe outside service, the board allows local regulations that, in conjunction with a local sidewalk cafe permit, requires a forty-two inch barrier or permanent demarcation of the designated alcohol service areas for continued enforcement of the boundaries.
  - (a) The permanent demarcation must be at all boundaries of the outside service area;
  - (b) The permanent demarcation must be at least six inches in diameter;
  - (c) The permanent demarcation must be placed at a minimum of ten feet apart;
  - (d) There must be an attendant, wait staff, or server dedicated to the outside service area when patrons are present;
  - (e) This exception only applies to restaurant liquor licenses with sidewalk cafe service areas contiguous to the liquor licensed premises. "Contiguous" means touching along a boundary or at a point;
  - (f) This exception does not apply to beer gardens, standing room only venues, and permitted special events. Board approval is still required with respect to sidewalk cafe barrier requirements.
- (7) **Limited exception.** The board may grant limited exceptions to the required forty-two inch high barrier for outside alcohol service areas.
  - (a) The licensee must have exclusive leasehold rights to the outside service area.
  - (b) There must be permanent demarcations at all boundaries of the outside service area for continued enforcement of the boundaries.

NEW SECTION

**WAC 314-03-300 Alterations to a licensed premises.** The following changes to a licensed premises require approval from the board's licensing division:

- (1) Any alteration that affects the size of a premises' customer service area.
  - (a) The licensee must submit two sets of floor plans showing the changes.

(b) The board's licensing division will make an initial response on the licensee's request for alterations within five business days.

(c) The licensee must contact their local liquor enforcement officer when the alteration is completed.

(d) The licensee may begin liquor service in conjunction with the alteration after the completed alteration is inspected by the liquor enforcement officer.

(2) Excluding persons under twenty-one years of age from a spirits, beer, and wine restaurant or a spirits, beer, and wine nightclub.

The licensee must submit their request to the board's licensing division for an approval.

(3) Excluding persons under twenty-one years of age from the dining area of a beer and/or wine restaurant.

The licensee must submit their request to the board's licensing division for an approval.

(4) Reclassifying a lounge as open to persons under twenty-one years of age for a special event.

The licensee must submit their request to the board's licensing division for an approval.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-055 Temporary retail license.** Applicants may request a temporary retail liquor license in addition to an annual license for the same business. If granted, the temporary license allows the applicant to operate for a period of up to one hundred twenty days while the annual license application is being processed.

Type of Application	Qualification and process to receive a temporary retail license
<p>(1) <b>New business, existing licensed business, or new license type:</b></p> <ul style="list-style-type: none"> <li>• Applicant is applying for a license at a business location that does not hold a current, valid liquor license.</li> <li>• Applicant is applying for the same license privilege at a location that has a valid license that has not expired.</li> <li>• Applicant is applying for a license or a business that has an existing license at the location, but the applicant is applying for a different license privilege(s).</li> </ul>	<p>In order to receive a temporary license, the applicant(s) must:</p> <ul style="list-style-type: none"> <li>(• <del>Sign the acknowledgment form.</del>)</li> <li>(• <del>Clear a criminal history check, per WAC 314-07-040.</del>)</li> <li>• Complete <del>(a briefing on liquor laws and regulations, per WAC 314-07-020(7))</del> <u>licensing requirements as determined by the board.</u></li> </ul>



Type of Application	Qualification and process to receive a temporary retail license
	<ul style="list-style-type: none"> <li>• The local authority and any churches, schools, or public colleges or universities within 500 feet of the proposed licensed business must have responded to the liquor control board's notice of liquor license application, or the time period must have passed. See WAC 314-07-020, subsections (1), (2), and (3) for more information.</li> <li>• When the annual liquor license is issued, the fee will be pro-rated back to the date of issuance of the temporary license.</li> </ul>

(2) For the purposes of this section, "retail liquor license" shall include all classes of liquor licenses that allow the holder to sell liquor directly to the public.

(3) The privilege of having a temporary license issued upon an application for license does not apply to breweries ~~((or))~~, wineries, or distilleries.

(4) A temporary license under subsection (1) ~~((above))~~ of this section may be issued for a distributor license applicant.

**Chapter 314-07 WAC**

**HOW TO APPLY FOR AND MAINTAIN A LIQUOR LICENSE**

AMENDATORY SECTION (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

**WAC 314-07-005 What is the purpose of this chapter?** RCW 66.24.010 states the board will only issue licenses and permits to applicants and locations that meet certain qualifications. The purpose of this chapter is to outline the qualifications and steps necessary to receive and maintain a liquor license or permit.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-010 Definitions.** Following are definitions for the purpose of this title. Other definitions are in WAC 314-01-005 and RCW 66.08.010.

(1) "Applicant" or "liquor license applicant" means any person or business entity who is considered by the board as a true party of interest in a liquor license or permit application, as outlined in WAC 314-07-035.

(2) "Building" means a stationary structure with floor to ceiling solid walls and a roof. A food truck is not a "building."

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs, advertising, etc.

(4) "Financier" means any person or entity who has made or will make an investment in the licensed business of more than ten thousand dollars. A "financier" can be someone who provides money as a gift, someone who loans money to the business and expects to be paid back the amount of the loan without interest, or someone who invests money into the business expecting a percentage of the profits, but accepts the risk that there may not be a full return on the investment. These persons or entities shall submit appropriate investigation level "financier" financial documents.

(5) "Licensee" or "liquor licensee" means any person or entity that holds a liquor license or permit, or any person or entity who is a true party of interest in a liquor license or permit, as outlined in WAC 314-07-035.

(6) "Public institution" means a public college or university. (See WAC 314-07-020 regarding the liquor control board notifying public institutions of liquor license applications.)

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-015 General information about liquor licenses.**

(1) A person or entity must meet required qualifications to receive a liquor license, ~~((which are continuing))~~ and must continue to meet the qualifications in order to maintain the license.

(2) A liquor license may be approved at a personal residence under the following conditions:

(a) The proposed licensed premises is either separate from or walled off from personal living quarters.

(b) The proposed licensed premises has its own entrance separate from the entrance to the personal living quarters.

(c) Any access from the proposed licensed premises into the personal living quarters is permanently secured.

(d) Any and all items related to the operation of the proposed licensed business are contained within the licensed premises. This includes, but is not limited to, liquor inventory, business records, computers, equipment and anything else needed for the operation of the licensed business.

(3) A liquor license applicant may not exercise any of the privileges of a liquor license until the board approves the license application (see WAC 314-07-055 regarding temporary licenses).

~~((3))~~ (4) In approving a liquor license, the board reserves the right to impose special conditions as to the involvement in the operations of the licensed business of any former licensees, their former employees, or any person who does not qualify for a liquor license.

AMENDATORY SECTION (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-035 What persons or entities have to qualify for a liquor license?** Per RCW 66.24.010(1), a liquor license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> <li>• All general partners and spouses;</li> <li>• All limited partners that have more than 10% interest in the partnership and their spouses.</li> </ul>
Limited liability company	<ul style="list-style-type: none"> <li>• All members (or persons with equivalent title) with more than 10% interest in the LLC and spouses. (Note: In order for the liquor control board to identify the persons to be qualified, we will need to know all parties that have an interest in the limited liability company or have a pending interest.)</li> <li>• All managers (or persons with equivalent title) and their spouses.</li> </ul>
Privately held corporation	<ul style="list-style-type: none"> <li>• All corporate officers (or persons with equivalent title) and their spouses.</li> <li>• All stockholders (or persons with equivalent title) and their spouses who hold more than 10% of the issued or outstanding stock. (Note: In order for the liquor control board to identify the persons to be qualified, we will need to know all parties who have been issued or will be issued corporate stock.)</li> </ul>
Publicly held corporation	All corporate officers (or persons with equivalent title).
Multi-level ownership structures	The liquor control board will review each entity to determine which individuals are to qualify according to the guidelines in this rule.

True party of interest	Persons to be qualified
Any entity	<p>Any person who is in receipt of, or has the right to receive, more than ten percent of the gross or net sales from the licensed business during any full or partial calendar or fiscal year. For the purposes of this chapter:</p> <ul style="list-style-type: none"> <li>• "Gross sales" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business.</li> <li>• "Net sales" means gross sales minus cost of goods sold.</li> </ul>

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent (as determined by the board) on a fixed or percentage basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's pre-bonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(d) A person or entity receiving payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement, unless the person or entity receiving payment of franchise fees exercises control over or participates in the management of the licensed business.

(e) A 401K, IRA, or nonfamilial trust.

(3) **Financiers** - The board may conduct a financial investigation of financiers.

(4) **Persons who exercise control of business** - The board may conduct an investigation of any person or entity who exercises any control over the applicant's business operations.

In cases where there is an entity who is in control of the day-to-day business operation (other than the owner) because of an agreement between the owner and the operator, the operating party becomes a true party of interest. The operator must meet all the qualifications of any other true party of interest and if approved, must be the licensee. The owner may be required to be named on the license as a party of interest based on the terms of the agreement, but will not normally be required to meet all the qualifications of a true party of interest.

(5) The board reserves the right to investigate any person or entity in a liquor license application or current liquor

license where hidden ownership or misrepresentation of fact is suspected.

(6) For purposes of this section, a person or entity who takes more than ten percent of the profits and/or exercises control over the licensed business in a given agreement may be named on the license as a party of interest per this rule. Examples of this are lease, operating plan, concession or management agreement.

**AMENDATORY SECTION** (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-040 What criminal history might prevent a liquor license applicant or licensee from receiving or keeping a liquor license?** (1) When the board processes a criminal history check on ~~((an applicant))~~ a true party of interest, it uses a point system to determine if the person qualifies for a license. The board will not normally issue a liquor license to an applicant who has accumulated eight or more points as indicated below:

Description	Time period during which points will be assigned	Points assigned
Felony conviction	Ten years	12 points
Gross misdemeanor conviction	Three years	5 points
Misdemeanor conviction	Three years	4 points
Currently under federal or state supervision for a felony conviction	n/a	8 points
Nondisclosure of any of the above	n/a	4 points each

(2) If a case is pending for an alleged offense that would earn eight or more points, the board will hold the application for the disposition of the case. If the disposition is not settled within ninety days, the board may administratively close the application.

(3) The board will not normally issue a liquor license to any person who has demonstrated a pattern of disregard for laws and rules. A pattern or disregard for laws and rules is inclusive of violation history outside of the liquor and cannabis board, to include other regulatory agencies and other states.

(4) Current liquor licensees are required to notify the board within thirty days of any arrests or criminal convictions. Failure to do so may result in revocation of the liquor license.

**AMENDATORY SECTION** (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-060 Reasons for denial or ~~((cancellation))~~ revocation of a temporary license.** Following is a list

of reasons a temporary permit may not be issued or can be revoked. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application. Refusal by the board to issue or extend a temporary license shall not entitle the applicant to request a hearing.

(1) An applicant who has received a temporary license and their application is later administratively closed, and they reapply for a liquor license at the same location.

(2) The local authority objects for any reason.

(3) The applicant affirmatively refuses to submit documents requested by the board to conduct the application investigation.

(4) The applicant accrues or is involved in an administrative violation committed while operating under a temporary license.

(5) The investigator is unable to determine the true party of interest.

(6) The applicant fails to meet the basic requirements of the license.

(7) An objection is received from a privately or publicly funded elementary or secondary school within five hundred feet of the proposed location.

(8) Violation history of the applicant is found to be sufficient to raise the application to threshold decision.

(9) Upon denial of the permanent license, the temporary license will be immediately revoked.

**AMENDATORY SECTION** (Amending WSR 15-11-106, filed 5/20/15, effective 6/20/15)

**WAC 314-07-065 Reasons the board may deny a liquor license application.** Following is a list of reasons the board may deny a liquor license application. Per RCW 66.24.010, the board has broad discretionary authority to approve or deny a liquor license or permit application.

(1) Failure to meet qualifications or requirements for the specific liquor license or privilege, as outlined in this Title 314 WAC and Title 66 RCW.

(2) Failure by any ~~((applicant or financier))~~ person or entity associated with the application to submit information or documentation requested by the board.

(3) Refusal by any ~~((applicant or financier))~~ person or entity associated with the application to submit information or documentation requested by the board.

(4) Misrepresentation of fact by any ~~((applicant or financier))~~ person or entity associated with the application.

(5) Failure to meet the criminal history standards outlined in WAC 314-07-040.

(6) Failure to meet the liquor law or rule violation history standards outlined in WAC 314-07-045.

(7) Source of funds used for the acquisition, startup and operation of the business is questionable or unverified.

(8) Objection from the local authority or from the public (see WAC 314-09-010 and RCW 66.24.010(8)).

(9) Objection from the following entities if they are within five hundred feet of the proposed business: A public school, a private school that meets the requirements of chapter 28A.195 RCW, a church, or a public college or university. See WAC 314-09-010 and RCW 66.24.010(9) for more information. Note: Per RCW 66.24.010(9), the board may not

issue a new liquor license if the board receives objection from a public school within five hundred feet of the proposed licensed business.

(10) The board determines that the issuance of the liquor license will not be in the best interest of the welfare, health, or safety of the people of the state.

**AMENDATORY SECTION** (Amending WSR 04-15-162, filed 7/21/04, effective 8/21/04)

**WAC 314-11-065 What type of liquor is allowed on a licensed premises?** (1) Licensees may only possess and allow persons to consume or possess the type of liquor permitted by the type of liquor license held on the premises; except:

(a) Under authority of a banquet permit (see chapter 314-18 WAC);

(b) Restaurant licensees may allow patrons to bring wine into the premises for consumption with a meal; ~~((and))~~

(c) Beer and/or wine restaurant or tavern licensees may keep spirituous liquor on the premises for use in the manufacture of food products, provided that:

(i) All food products manufactured contain one percent or less of alcohol by weight (per RCW ~~((66.12.16.160~~ ~~66.12.160))~~); 66.12.160;

(ii) Customers are made aware that the food products contain liquor~~(s)~~; and

(iii) The beer and/or wine restaurant or tavern licensee notifies the local liquor control board enforcement office in writing before they bring spirituous liquor on the premises.

(d) Under the authority of a special occasion license.

(2) For on-premises liquor licenses, the licensee or employees may not permit the removal of liquor in an open container from the licensed premises, except:

(a) Liquor brought on a licensed premises under authority of a banquet permit may be resealed in its original container and removed at the end of the banquet permit function;

(b) Per RCW 66.24.320 and 66.24.400, wine that is sold with a meal may be recorked or resealed and removed from the premises;

(c) Liquor purchased by registered guests for consumption inside a hotel or motel room may be resealed in its original container and removed from the hotel or motel premises by the guest; and

(d) Liquor removed from a licensed premises that holds a caterer's endorsement, for the purpose of catering an approved event.

**AMENDATORY SECTION** (Amending WSR 05-07-012, filed 3/4/05, effective 4/4/05)

**WAC 314-12-020 ~~((Applicants—Qualifications—Fingerprinting—Criminal history record information checks—))Continuing conditions~~~~((—Agreements—Reconsideration of denied applications))~~ to hold a liquor license.** ~~((1) Where a married person is an applicant for, or holder of a license, the spouse of such applicant, if the parties are maintaining a marital community, shall be required to have the same qualifications as the applicant.~~

~~(2) The board may require, as a condition precedent to the original issuance of any annual license, fingerprinting and~~

~~criminal history record information checks on any person not previously licensed by the board. In addition to the applicant, fingerprinting and criminal history record information checks may be required of the applicant's spouse. In the case of a corporation, fingerprinting and criminal history record information checks may be required of its present and any subsequent officers, manager, and stockholders who hold more than ten percent of the total issued and outstanding stock of the applicant corporation if such persons have not previously had their fingerprints recorded with the board. In the case of a partnership, fingerprinting and criminal history record information checks may be required of all general partners and their spouses. Such fingerprints as are required by the board shall be submitted on forms provided by the board to the Washington state identification section of the Washington state patrol and to the identification division of the Federal Bureau of Investigation in order that these agencies may search their records for prior arrests and convictions of the individuals fingerprinted. The applicant shall give full cooperation to the board and shall assist the board in all aspects of the fingerprinting and criminal history record information check. The applicant may be required to pay a minimal fee to the agency which performs the fingerprinting and criminal history process.~~

~~(3) The restrictions on license issuance specified in RCW 66.24.010(2) shall be construed to be continuing conditions for retaining an existing license and any licensed person who ceases to be eligible for issuance of a license under RCW 66.44.010(2) shall also cease to be eligible to hold any license already issued.~~

~~(4) The board, in considering an application for a license, may require, in addition to all other information requested concerning the proposed licensed premises (see WAC 314-12-035), that the applicant justify the issuance of the license sought based on an analysis of population trends compared to licenses in the area, any uniqueness of the proposed operation, any unusual circumstances present, plus any other information the applicant(s) may feel will justify the issuance of the license sought.~~

~~The board may, at its discretion and for good cause shown, reconsider an application denied for reasons other than objection upon receipt of new information within sixty days of the original denial date. Such reconsiderations are not considered part of the normal license application procedure and must be justified on an individual basis. Should the board determine to reconsider a denied application, notice of such reconsideration shall be given to those persons and/or entities entitled to receive notice of an original license application pursuant to RCW 66.24.010(8). Such notice shall be given at least twenty days prior to final determination on the reconsideration. Additionally, at the same time the notice is given, a press release will be issued informing the public of the impending reconsideration. The process for applications denied due to objection is outlined in chapter 314-09 WAC.)~~  
A person or entity must meet minimum required qualification to receive a liquor license, and must continue to meet the qualifications in order to maintain the liquor license.

AMENDATORY SECTION (Amending WSR 93-18-094, filed 9/1/93, effective 10/2/93)

**WAC 314-12-030** (~~(License to reflect true party in interest—)~~) **Display of licenses.** (1) Pursuant to the requirements of RCW 66.24.010(1), any license issued shall be issued in the name(s) of the true party or parties in interest.

(2) All licenses (except certificates of approval and agent's licenses) shall be prominently displayed on the licensed premises.

~~((3) For purposes of this section, "true party" shall apply to any person or entity having a substantial interest in the business conducted on the premises to be licensed.~~

~~(4) For purposes of this section, "substantial interest" shall mean any of the following:~~

~~(a) Receipt of, or the right to receive, ten percent or more of the gross sales from the licensed business during any calendar or fiscal year of the licensed business. Gross sales, as used in this section, shall include the entire gross receipts of every kind and nature from the sales and services made in, upon, or from the premises, whether on a credit or cash basis, whether operated by the licensee or manager, except:~~

~~Any rebates or refunds to customers;~~

~~The licensee's cost of meals and beverage provided to employees;~~

~~The amount of sales tax receipts or admission taxes;~~

~~(b) An investment in the licensed business of ten thousand dollars or more; or~~

~~(c) Ownership of stock constituting more than ten percent of the issued or outstanding stock of the licensed business.~~

~~(5) For purposes of this section, "substantial interest" shall not mean:~~

~~(a) A bonus paid to an employee, if the employee is on a fixed wage or salary and the bonus is not more than twenty-five percent of the employee's prebonus annual compensation, or the bonus is based on a written incentive/bonus program and is not out of the ordinary for the services rendered;~~

~~(b) Repayment of a loan or payment on a contract to purchase property unless the loan or contract holder exercises control over or participates in the management of the licensed business;~~

~~(c) Reasonable payment for rent on a fixed or percentage basis under a bona fide lease or rental obligation unless the lessor or property manager exercises control over or participates in the management of the business;~~

~~(d) Payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement;~~

~~(e) Payment of dividends to corporate stockholders.)~~

AMENDATORY SECTION (Amending WSR 85-24-040, filed 11/27/85)

**WAC 314-12-050** **Loss or destruction of licenses, permits, etc.—Fee.** Upon the loss or destruction of ~~((any))~~ a license or permit issued by the board to purchase liquor ~~((thereunder))~~, application for a duplicate must be made to the board. Fee: \$5.00.

AMENDATORY SECTION (Amending WSR 96-03-004, filed 1/4/96, effective 2/4/96)

**WAC 314-12-070** **Applications for currently licensed locations.** ~~((H))~~ No application for any license shall be made except in conformance with RCW 66.24.010, and subject to the following conditions: ~~((a) Except as authorized by WAC 314-12-025;)~~ The license applicant shall not take possession of the premises, nor exercise any of the privileges of a licensee, nor shall such application be effective until the board shall have approved the same~~((;~~

~~(b) In approving any license, the board reserves the right to impose special conditions as to the future connection of the former licensee or any of his employees with the licensed business as in its judgment the circumstances may justify;~~

~~(c) A change of trade name may be made coincident with the issuance of the license without any additional fee.~~

~~(2) The sale of a partnership interest or any change in the partners, either by withdrawal or addition or otherwise, shall be considered a change of ownership and subject to the applicable regulations.~~

~~(3) If the licensee is a corporation, whether as sole licensee or in conjunction with other entities, a change in ownership of any stock shall be deemed a corporate change. The licensed corporation shall report to and obtain written approval from the board, for any proposed change in principal officers and/or the proposed sale of more than ten percent of the corporation's outstanding and/or issued stock before any such changes are made. The board may inquire into all matters in connection with any such sale of stock or proposed change in officers. The board will waive the fee for a corporate change when the proposed change consists solely of dropping an approved officer.~~

~~(4) For purposes of this regulation:~~

~~(a) "Principal officer" shall mean the president, vice-president, secretary, and treasurer, or the equivalent in title, for a publicly traded corporation, and president, vice-president, secretary, treasurer, or the equivalent in title, and all other officers who hold more than ten percent of the corporate stock, for a privately held corporation.~~

~~(b) The "proposed sale of more than ten percent of the stock" will be calculated as a cumulative total and must be reported to the board when the accumulation of stock transfers or newly issued stock totals more than ten percent of the outstanding and/or issued stock of the licensed corporation).~~

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 314-12-033 Limited partnerships.

WAC 314-12-200 Converting a public house license (RCW 66.24.580) to a domestic brewery, microbrewery or domestic winery license.

**WSR 17-07-135**  
**PROPOSED RULES**  
**DEPARTMENT OF TRANSPORTATION**

[Filed March 22, 2017, 11:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 16-18-002.

Title of Rule and Other Identifying Information: WAC 468-38-100 Pilot/escort vehicle and operator requirements, the Washington state department of transportation (WSDOT) is proposing to modify the existing rule to satisfy a recommendation by the National Transportation Safety Board (NTSB) after their investigation into the collapse of the Skagit River Bridge on Interstate 5 in 2013.

Hearing Location(s): Transportation Building, Commission Board Room 1D2, 310 Maple Park Avenue S.E., Olympia, WA 98504, on May 1, 2017, at 9:00 a.m.

Date of Intended Adoption: May 1, 2017.

Submit Written Comments to: Anne Ford, P.O. Box 47367, Olympia, WA 98504-7367, email fordA@wsdot.wa.gov, fax (360) 705-7341, by May 1, 2017.

Assistance for Persons with Disabilities: Contact Grant Heap by May 1, 2017, TTY 711 or (360) 705-7760.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal will revise requirements for pilot/escort car operators based on recommendations by NTSB. "The vehicle(s) or load exceeds twelve feet in width on multilane highway and has a height that requires a front pilot/escort vehicle: One rear pilot/escort vehicle is required."

Reasons Supporting Proposal: To satisfy recommendations by NTSB.

Statutory Authority for Adoption: RCW 46.44.090, 46.44.093.

Statute Being Implemented: RCW 46.44.090.

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

Name of Proponent: WSDOT traffic office, commercial vehicle services, governmental.

Name of Agency Personnel Responsible for Drafting: Justin Heryford, 7345 Linderson Way S.W., Tumwater, WA, (360) 705-7987; Implementation: Anne Ford, 7345 Linderson Way S.W., Tumwater, WA, (360) 705-7341; and Enforcement: Captain Michael Dahl, 210 11th Street, General Administration Building, Olympia, WA, (360) 596-3800.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

#### Small Business Economic Impact Statement

Based on price data received from the Northwest Pilot Car Association (NWPCA) and using data from the WSDOT permit program, an approximate average cost increase is determined if a rear pilot were added to loads due to the rule change.

There were **three thousand three hundred sixty-eight** total permits that met the criteria that would have needed a rear pilot if the new rule were in effect in 2015. The average cost for the additional pilot is approximately **\$182.21**. The additional costs do not have a disproportionate impact to

small businesses. There are some price differences between standard oversize loads and manufactured homes.

The proposed rule change will require an additional pilot car when a load has height characteristics requiring a front pilot (equipped with a height pole) and an overwidth dimension exceeding twelve feet while traveling on a multilane highway. The data query was based on:

- Calendar year 2015, oversize/overweight single trip permits issued.
- Permits that require a front pilot equipped with a height pole and have a width greater than twelve feet but less than or equal to fourteen feet.

\*Manufactured and modular homes/houses do not need a front pilot with a height pole until they exceed fifteen feet.

\*Standard overheight loads (nonmanufactured/modular) require a front pilot when exceeding fourteen feet six inches. The NWPCA provided costs per pilot and various price differences.

\$95 for standard oversize loads, when load exceeds twenty-five miles an additional \$1.70 per mile.

\$85 for manufactured/mobile homes/houses, when load exceeds twenty-five miles an additional \$1.50 per mile.

An additional \$75 per pilot for overnight moves (exceeding two hundred miles).

Additional comments:

- Query shows raw data and average distance traveled and average costs.
- Overnight costs were determined based on a distance threshold of two hundred miles.
- There were fifteen thousand two hundred three monthly or annual permits issued in calendar year 2015. Those routes traveled and width and height measurements are not tracked.
- The query results reveal an average additional cost per load if the rule were in effect in 2015.

#### Small Business Economic Impact Statement (SBEIS) (RCW 19.85.040 Questions)

- (a) Cost per employee;
- (b) Cost per hour of labor; or
- (c) Cost per one hundred dollars of sales.

*Estimated additional cost of \$182.21 per load based on moves that would have been impacted if the rule were in effect in 2015.*

(2) An SBEIS must also include:

(a) A statement of the steps taken by the agency to reduce the costs of the rule on small businesses as required by RCW 19.85.030(2), or reasonable justification for not doing so, addressing the options listed in RCW 19.85.030(2);

*WSDOT did not take steps to reduce costs of the rule on small businesses due to the nature of the rule change. The decision to propose the rule is based on a recommendation from NTSB. The additional rear pilot car will make it easier for the overheight load to change lanes when navigating through and around overhead obstacles, increasing safety for the motoring public, safety of those transporting the oversize load, and protecting our infrastructure. The proposal was reviewed by NTSB and met their recommendations for improved safety.*

(b) A description of how the agency will involve small businesses in the development of the rule;

*Rule negotiation process - Included Washington Trucking Associations and NWPCA.*

(c) A list of industries that will be required to comply with the rule. However, this subsection (2)(c) shall not be construed to preclude application of the rule to any business or industry to which it would otherwise apply; and

*Oversize trucking industry and pilot/escort vehicle operators (PEVO).*

(d) An estimate of the number of jobs that will be created or lost as the result of compliance with the proposed rule.

*An estimated three thousand three hundred additional piloted loads based on the 2015 calendar year.*

(3) To obtain information for purposes of this section, an agency may survey a representative sample of affected businesses or trade associations and should, whenever possible, appoint a committee under RCW 34.05.310(2) to assist in the accurate assessment of the costs of a proposed rule, and the means to reduce the costs imposed on small business.

*PEVO's inquiry was conducted through NWPCA to determine the additional costs associated with the proposed rule. The WSDOT permit program was queried to determine the number of loads that could be effected by the proposal.*

A copy of the statement may be obtained by contacting Justin Heryford, P.O. Box 47367, Olympia, WA 98504-7367, phone (360) 705-7987, email heryfoj@wsdot.wa.gov. The rule is proposed to comply with federal regulation.

A cost-benefit analysis is not required under RCW 34.05.328. There is no additional agency cost related to this proposal.

March 22, 2017

Kara Larsen, Director  
Risk Management and Legal Services

AMENDATORY SECTION (Amending WSR 16-11-012, filed 5/5/16, effective 6/5/16)

**WAC 468-38-100 Pilot/escort vehicle and operator requirements.** (1) A certified pilot/escort operator, acting as a warning necessary to provide safety to the traveling public, must accompany an extra-legal load when:

(a) The vehicle(s) or load exceeds eleven feet in width: Two pilot/escort vehicles are required on two lane highways, one in front and one at the rear.

(b) The vehicle(s) or load exceeds fourteen feet in width: One escort vehicle is required at the rear on multilane highways.

(c) The vehicle(s) or load exceeds twenty feet in width: Two pilot/escort vehicles are required on multilane undivided highways, one in front and one at the rear.

(d) The trailer length, including load, of a tractor/trailer combination exceeds one hundred five feet, or when the rear overhang of a load measured from the center of the rear axle exceeds one-third of the trailer length including load of a tractor/trailer or truck/trailer combination: One pilot/escort vehicle is required at the rear on two-lane highways.

(e) The trailer length, including load, of a tractor/trailer combination exceeds one hundred twenty-five feet: One

pilot/escort vehicle is required at the rear on multilane highways.

(f) The front overhang of a load measured from the center of the front steer axle exceeds twenty feet: One pilot/escort vehicle is required at the front on all two-lane highways.

(g) The rear overhang of a load on a single unit vehicle, measured from the center of the rear axle, exceeds twenty feet: One pilot/escort vehicle is required at the rear on two-lane highways.

(h) The height of the vehicle(s) or load exceeds fourteen feet six inches: One pilot/escort vehicle with height measuring device (pole) is required at the front of the movement on all highways.

(i) The vehicle(s) or load exceeds twelve feet in width on a multilane highway and has a height that requires a front pilot/escort vehicle: One rear pilot/escort vehicle is required.

(j) The operator, using rearview mirrors, cannot see two hundred feet to the rear of the vehicle or vehicle combination when measured from either side of the edge of the load or last vehicle in the combination, whichever is larger: One pilot/escort vehicle is required at the rear on all highways.

~~((j))~~ (k) In the opinion of the department, a pilot/escort vehicle(s) is necessary to protect the traveling public. Assignments of this nature must be authorized through the department's administrator for commercial vehicle services.

**(2) Can a pilot/escort vehicle be temporarily reassigned a position relative to the load during a move?** When road conditions dictate that the use of the pilot/escort vehicle in another position would be more effective, the pilot/escort vehicle may be temporarily reassigned. For example: A pilot/escort vehicle is assigned to the rear of an overlength load on a two-lane highway. The load is about to enter a highway segment that has curves significant enough to cause the vehicle and/or load to encroach on the oncoming lane of traffic. The pilot/escort vehicle may be temporarily reassigned to the front to warn oncoming traffic.

**(3) Can a certified flag person ever substitute for a pilot/escort vehicle?** In subsection (1)(d) and (e) of this section, the special permit may authorize a riding flag person, in lieu of a pilot/escort vehicle, to provide adequate traffic control for the configuration. The flag person is not required to ride in the pilot/escort vehicle but may ride in the transport vehicle with transporter's authorization.

**(4) Must an operator of a pilot/escort vehicle be certified to operate in the state of Washington?** Yes. To help assure compliance with the rules of this chapter, consistent basic operating procedures are needed for pilot/escort vehicle operators to properly interact with the escorted vehicle and the surrounding traffic. Operators of pilot/escort vehicles, therefore, must be certified as having received department-approved base level training as a pilot/escort vehicle operator and must comply with the following:

(a) A pilot/escort vehicle operator with a Washington state driver's license must have a valid Washington state pilot/escort vehicle operator certificate/card which must be on the operator's person while performing escort vehicle operator duties.

(b) A pilot/escort vehicle operator with a driver's license from a jurisdiction other than the state of Washington may

acquire a Washington state escort vehicle operator certificate/card, or operate with a certification from another jurisdiction approved by the department, subject to the periodic review of the issuing jurisdiction's certification program. A current list of approved programs will be maintained by the department's commercial vehicle services office.

(c) A pilot/escort vehicle operator certification does not exempt a pilot/escort operator from complying with all state laws and requirements of the state in which she/he is traveling.

(d) Every applicant for a state of Washington pilot/escort operator certificate shall attend an eight-hour classroom training course offered and presented by a business, organization, government entity, or individual approved by the department. At the conclusion of the course, the applicant will be eligible to receive the certification card after successfully completing a written test with at least an eighty percent passing score. State of Washington pilot/escort vehicle operator certification cards must be renewed every three years.

**(5) What are the pretrip procedures that must be followed by the operator of a pilot/escort vehicle?**

(a) Discuss with the operator of the extra-legal vehicle the aspects of the move including, but not limited to, the vehicle configuration, the route, and the responsibilities that will be assigned or shared.

(b) Prerun the route, if necessary, to verify acceptable clearances.

(c) Review the special permit conditions with the operator of the extra-legal vehicle. When the permit is a single trip extra-legal permit, displaying routing information, the pilot/escort operator(s) must have a copy of the permit, including all special conditions and attachments.

(d) Determine proper position of required pilot/escort vehicles and set procedures to be used among the operators.

(e) Check mandatory equipment, provided in subsections (9) and (10) of this section. Each operator is responsible for his or her own vehicle.

(f) Check two-way communication system to ensure clear communications between the pilot/escort vehicle(s) and the transport vehicle and predetermine the channel to be used.

(g) Acknowledge that nonemergency electronic communication is prohibited except communication between pilot/escort operator(s) and the transport vehicle during movement.

(h) Adjust mirrors, mount signs and turn on lights, provided in subsections (8)(e) and (9)(a) and (b) of this section.

**(6) What are the responsibilities of the operator of a pilot/escort vehicle when assigned to be in front of the extra-legal movement? The operator shall:**

(a) Provide general warning to oncoming traffic of the presence of the permitted vehicle by use of signs and lights, provided in subsection (9) of this section;

(b) Notify the operator of the extra-legal vehicle, and the operator(s) of any trailing pilot/escort vehicle(s), about any condition that could affect either the safe movement of the extra-legal vehicle or the safety of the traveling public, in sufficient time for the operator of the extra-legal vehicle to take corrective action. Conditions requiring communication include, but are not limited to, road-surface hazards; over-

head clearances; obstructions; traffic congestion; pedestrians; etc.;

(c) Provide guidance to the extra-legal vehicle through lane changes, egress from one designated route and access to the next designated route on the approved route itinerary, and around any obstacle;

(d) In the event of traffic buildup behind the extra-legal vehicle, locate a safe place adjacent to the highway where the extra-legal vehicle can make a temporary stop. Notify the operator of the extra-legal vehicle, and the operator(s) of any trailing pilot/escort vehicle(s), in sufficient time for the extra-legal vehicle to move out of the traffic flow into the safe place, allowing the following traffic to pass safely;

(e) In accordance with training, be far enough in front of the extra-legal vehicle to allow time for the extra-legal vehicle to stop or take corrective action as necessary when notified by the front pilot/escort operator. Be far enough in front of the extra-legal vehicle to signal oncoming traffic to stop in a safe and timely manner before entering any narrow structure or otherwise restricted highway where an extra-legal vehicle has entered and must clear before oncoming traffic can enter;

(f) In accordance with training, do not be any farther ahead of the extra-legal vehicle than is reasonably prudent, considering speed of the extra-legal vehicle, other traffic, and highway conditions. Do not exceed a distance between pilot/escort vehicle and extra-legal vehicle that would interfere with maintaining clear two-way radio communication; and

(g) Assist in guidance to a safe place, and/or traffic control, in instances when the extra-legal vehicle becomes disabled.

**(7) What are the responsibilities of the operator of a pilot/escort vehicle when assigned to be at the rear of the extra-legal movement? The operator shall:**

(a) Provide general warning to traffic approaching from the rear of the extra-legal vehicle ahead by use of signs and lights, provided in subsection (9) of this section;

(b) Notify the operator of the extra-legal vehicle, and the operator(s) of any leading pilot/escort vehicle(s), about any condition that could affect either the safe movement of the extra-legal vehicle or the safety of the traveling public, in sufficient time for the operator of the extra-legal vehicle to take corrective action. Conditions requiring communication include, but are not limited to, objects coming loose from the extra-legal vehicle; flat tires on the extra-legal vehicle; rapidly approaching traffic or vehicles attempting to pass the extra-legal vehicle; etc.;

(c) Notify the operator of the extra-legal vehicle, and/or the operator of the lead pilot/escort vehicle, about traffic buildup or other delays to normal traffic flow resulting from the extra-legal move;

(d) In the event of traffic buildup behind the extra-legal vehicle, notify the operator of the extra-legal vehicle, and the operator(s) of any pilot/escort vehicle(s) in the lead, and assist the extra-legal vehicle in its move out of the traffic flow into the safe place, allowing the following traffic to pass safely;

(e) In accordance with training, be far enough behind the extra-legal vehicle to provide visual warning to approaching



traffic to slow or stop in a timely manner, depending upon the action to be taken by the extra-legal vehicle, or the condition of the highway segment (i.e., limited sight distance, mountainous terrain, narrow corridor, etc.);

(f) Do not follow more closely than is reasonably prudent, considering the speed of the extra-legal vehicle, other traffic, and highway conditions. Do not exceed one-half mile distance between the pilot/escort vehicle and the extra-legal vehicle in order to maintain radio communication, except when necessary to safely travel a long narrow section of highway; and

(g) Pilot/escort operators shall not perform tillerman duties while performing escorting duties. For this section, tillerman refers to an individual that operates the steering of the trailer or trailing unit of the transport vehicle; and

(h) Assist in guidance to a safe place, and/or traffic control, in instances when the extra-legal vehicle becomes disabled.

**(8) What kind of vehicle can be used as a pilot/escort vehicle?** In addition to being in safe and reliable operating condition, the vehicle shall:

(a) Be either a single unit passenger car, including passenger van, or a two-axle truck, including a nonplacarded service truck;

(b) Not exceed a maximum gross vehicle weight or gross weight rating of sixteen thousand pounds;

(c) Have a body width of at least sixty inches but no greater than one hundred two inches;

(d) Not exceed the legal limits of size and weight, as defined in chapter 46.44 RCW; and

(e) Be equipped with outside rear-view mirrors, located on each side of the vehicle.

(f) Not tow a trailer while escorting.

**(9) In addition to equipment required by traffic law, what additional equipment is required on the vehicle when operating as a pilot/escort, and when is it used?**

(a) A minimum of one flashing or rotating amber (yellow) light or strobe, positioned above the roof line, visible from a minimum of five hundred feet to approaching traffic from the front or rear of the vehicle and visible a full three hundred sixty degrees around the pilot/escort vehicle. Light bars, with appropriately colored lights, meeting the visibility minimums are acceptable. Lights must only be activated while escorting an extra-legal vehicle, or when used as traffic warning devices while stopped at the side of the road taking height measurements during the prerunning of a planned route. The vehicle's headlights must also be activated while escorting an extra-legal vehicle.

(b) A sign reading "OVERSIZE LOAD," measuring at least five feet wide, ten inches high with black lettering at least eight inches high in a one-inch brush stroke on yellow background. The sign shall be mounted over the roof of the vehicle and shall be displayed only while performing as the pilot/escort of an extra-legal load. When the vehicle is not performing as a pilot/escort, the sign must be removed, retracted or otherwise covered.

(c) A two-way radio communications system capable of providing reliable two-way voice communications, at all times, between the operators of the pilot/escort vehicle(s) and the extra-legal vehicle(s).

(d) Nonemergency electronic communications is prohibited except communication between the pilot/escort vehicle(s) and the transport vehicle during movement.

**(10) What additional or specialized equipment must be carried in a pilot/escort vehicle?**

(a) A standard eighteen-inch STOP AND SLOW paddle sign.

(b) Three bi-directional emergency reflective triangles.

(c) A minimum of one five-pound B, C fire extinguisher, or equivalent.

(d) A high visibility safety garment designed according to Class 2 specifications in ANSI/ISEA 107-1999, *American National Standard for High Visibility Safety Apparel*, to be worn when performing pilot/escort duties outside of the vehicle. The acceptable high visibility colors are fluorescent yellow-green, fluorescent orange-red or fluorescent red.

(e) A highly visible colored hard hat, also to be worn when performing pilot/escort duties outside of the vehicle, per WAC 296-155-305.

(f) A height-measuring device (pole), which is nonconductive and nondestructive to overhead clearances, when required by the terms of the special permit. The upper portion of a height pole shall be constructed of flexible material to prevent damage to wires, lights, and other overhead objects or structures. The pole may be carried outside of the vehicle when not in use. See also subsection (14) of this section.

(g) First-aid supplies as prescribed in WAC 296-800-15020.

(h) A flashlight in good working order with red nose cone. Additional batteries should also be on hand.

**(11) Can the pilot/escort vehicle carry passengers?** A pilot/escort vehicle may not contain passengers, human or animal, except that:

(a) A certified individual in training status or necessary flag person may be in the vehicle with the approval of the pilot/escort operator.

(b) A service animal may travel in the pilot/escort vehicle but must be located somewhere other than front seat of vehicle.

**(12) Can the pilot/escort vehicle carry any other items, equipment, or load?** Yes, as long as the items, equipment or load have been properly secured; provided that, no equipment or load may be carried in or on the pilot/escort vehicle that:

(a) Exceeds the height, length, or width of the pilot/escort vehicle, or overhangs the vehicle, or otherwise impairs its immediate recognition as a pilot/escort vehicle by the traveling public;

(b) Obstructs the view of the flashing or rotating amber lights, or "OVERSIZE LOAD" sign on the vehicle;

(c) Causes safety risks; or

(d) Otherwise impairs the performance by the operator or the pilot/escort vehicle of the duties required by these rules.

**(13) Can a pilot/escort vehicle escort more than one extra-legal load at the same time?** No, unless the department determines there are special circumstances that have resulted in an express authorization on the special permit.

**(14) When and how must a pilot/escort vehicle use a height-measuring device?** The height-measuring device (pole) must be used when escorting an extra-legal load in

excess of fourteen feet six inches high, unless an alternative authorization has been granted by the department and stated on the special permit. The height pole must extend between three and six inches above the maximum height of the extra-legal vehicle, or load, to compensate for the affect of wind and motion. The height measuring device (pole) shall be mounted on the front of the lead pilot/escort vehicle. When not in the act of escorting an extra-legal height move, or pre-running a route to determine height acceptance, the height pole shall be removed, tied down or otherwise reduced to legal height.

**(15) Do the rules change when a uniformed off-duty law enforcement officer, using official police car or motorcycle, performs the escorting function?** While the spirit of the rules remains the same, specific rules may be modified to fit the situation.